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*

PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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DIVISION VIII. GENERAL LAWS.

TITLE 47. TAXATION, LICENSING, PERMITS, ASSESSMENTS AND FEES.

Chapter 3. Budget and Financial Management; Borrowing; Deposit of Funds.

Subchapter III-B. Anti-Deficiency.

§ 47-355.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Agency" means an agency, office, department, board, commission, or independent agency or instrumentality of the District Government.

(2) "Apportionment" means the division of an agency's appropriated budget authority by periods within a fiscal year.

(2A) "Emergencies involving the safety of human life or the protection of property" does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

(3) "Employee" means an individual who performs a function of the District Government and who receives compensation for the performance of that function.

(4) "Manager" means an individual chosen or appointed to manage, direct, or administer some affairs of the agency, including the expenditure of funds.

(5) "Program" means the highest level, for budgeting and expenditure control, within the agency that the District of Columbia Government uses for a specific purpose for appropriated budget authority. A program may consist of multiple activities, which combined achieve the stated purpose and goals.

(Apr. 4, 2003, D.C. Law 14-285, § 2, 50 DCR 940; Mar. 13, 2004, D.C. Law 15-105, § 77(a), 51 DCR 881; Sept. 20, 2012, D.C. Law 19-168, § 1102(a), 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (2A).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1102(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1102(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 47-355.02. Limitations on expenditures and obligating amounts.

A District agency head, deputy agency head, agency fiscal officer, agency budget director, agency controller, manager, or other employee may not:

(1) Make or authorize an expenditure or obligation exceeding an amount available in an appropriation for an agency, fund, or capital project;

(2) Obligate the District for the payment of money before an appropriation is made or before a certification of the availability of funds is made, unless authorized by law; provided, that this paragraph shall not prohibit the acceptance of voluntary services or employment of personal services exceeding that authorized by law during emergencies involving the safety of human life or the protection of property;

(3) Approve a disbursement without appropriate authorization;

(4) Defer recording a transaction incurred in the current fiscal year to a future fiscal year;

(5) Allow an expenditure or obligation to exceed apportioned amounts;

(6) Fail to submit a required plan or projection in a timely manner;

(7) Knowingly report incorrectly on spending to date or on projected total annual spending;

(8) Fail to adhere to a spending plan through overspending that is greater than 5% of the agency's budget, or $1 million, regardless of the percentage; or

(9) Make or authorize an expenditure or obligation for one capital project from another capital project.

(Apr. 4, 2003, D.C. Law 14-285, § 2, 50 DCR 940; Mar. 14, 2007, D.C. Law

16-293, § 2(a), 54 DCR 1083; Sept. 20, 2012, D.C. Law 19-168, § 1102(b), 59 DCR 8025.)

Section references. — This section is referenced in § 47-355.06 and § 47-355.07.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "agency, fund, or capital project" for "agency or fund" in (1); added "provided, that this paragraph shall not prohibit the acceptance of voluntary services or employment of personal services exceeding that authorized by law during emergencies involving the safety of human life or the protection of property" in (2); added (9); and made related changes.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1102(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1102(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 47-355.01.

§ 47-355.05. Reporting requirements of the Chief Financial Officer and Agency Fiscal Officers.

Section references. — This section is referenced in § 1-301.01.

Temporary Amendment of Section. — Section 2 of D.C. Law 19-228 amended this section by adding a new subsection (f) to read as follows:

"(f)(1) The Chief Financial Officer shall submit to the Council and the Mayor:

"(A) Within 15 days of completion, each audit and report conducted by the Office of Integrity and Oversight;

"(B) On a quarterly basis, an up-to-date list of each incomplete or ongoing audit or report that has been or is being conducted by the Office of Integrity and Oversight; and

"(C) By October 1 of each year, an annual audit plan for the Office of Integrity and Oversight.

"(2) The Chief Financial Officer shall post all completed audits and reports conducted by the Office of Integrity and Oversight on the website of the Office of the Chief Financial Officer within 15 days of completion."

Section 4(b) of D.C. Law 19-228 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary addition of (f), see § 2 of the Office of the Chief Financial Officer Audit Report Transparency Emergency Act of 2012 (D.C. Act 19-530, November 2, 2012, 59 DCR 13332).

Subchapter IV-B. Adjustments to Appropriations.

§ 47-369.01. General Fund surplus.

Beginning in fiscal year 2009 and each fiscal year thereafter, the amount appropriated to the District of Columbia may be increased by no more than $100,000,000 from funds identified in the annual comprehensive annual financial report as the District's immediately preceding fiscal year's unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) One-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(5) The amounts may not be obligated or expended unless the Mayor notifies the Committees on Appropriations of the House of Representatives and the Senate not fewer than 30 days in advance of the obligation or expenditure.

(Mar. 11, 2009, 123 Stat. 698, Pub. L. 111-8, § 816; Sept. 26, 2012, D.C. Law 19-171, § 301, 59 DCR 6190.)

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor's notes. — Section 301 of D.C. Law 19-171 enacted this subchapter into law.

§ 47-369.02. Increases to appropriations.

(a) Beginning in fiscal year 2009 and each fiscal year thereafter, consistent with revenue collections, the amount appropriated as District of Columbia Funds may be increased—

(1) by an aggregate amount of not more than 25 percent, in the case of amounts proposed to be allocated as "Other-Type Funds" in the annual Proposed Budget and Financial Plan submitted to Congress by the District of Columbia; and

(2) by an aggregate amount of not more than 6 percent, in the case of any other amounts proposed to be allocated in such Proposed Budget and Financial Plan.

(b) The District of Columbia may obligate and expend any increase in the amount of funds authorized under this section only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify—

(A) the increase in revenue; and

(B) that the use of the amounts is not anticipated to have a negative impact on the long-term financial, fiscal, or economic health of the District.

(2) The amounts shall be obligated and expended in accordance with laws enacted by the Council of the District of Columbia in support of each such obligation and expenditure, consistent with the requirements of this subchapter.

(3) The amounts may not be used to fund any agencies of the District government operating under court-ordered receivership.

(4) The amounts may not be obligated or expended unless the Mayor has notified the Committees on Appropriations of the House of Representatives and the Senate not fewer than 30 days in advance of the obligation or expenditure.

(Mar. 11, 2009, 123 Stat. 699, Pub. L. 111-8, § 817; Sept. 26, 2012, D.C. Law 19-171, § 301, 59 DCR 6190.)

Legislative history of Law 19-171. — See note to § 47-369.02.

Editor's notes. — Section 301 of D.C. Law 19-171 enacted this subchapter into law.

§ 47-369.03. Short-term borrowing from certain funds.

Beginning in fiscal year 2009 and each fiscal year thereafter, the Chief Financial Officer for the District of Columbia may, for the purpose of cash flow management, conduct short-term borrowing from the emergency reserve fund and from the contingency reserve fund established under § 1-204.50a: Provided, That the amount borrowed shall not exceed 50 percent of the total amount of funds contained in both the emergency and contingency reserve funds at the time of borrowing: Provided further, That the borrowing shall not deplete either fund by more than 50 percent: Provided further, That 100 percent of the funds borrowed shall be replenished within 9 months of the time of the borrowing or by the end of the fiscal year, whichever occurs earlier: Provided further, That in the event that short-term borrowing has been conducted and the emergency or the contingency reserve funds are later depleted below 50 percent as a result of an emergency or contingency, an amount equal to the amount necessary to restore reserve levels to 50 percent of the total amount of funds contained in both the emergency and contingency reserve fund must be replenished from the amount borrowed within 60 days.

(Mar. 11, 2009, 123 Stat. 699, Pub. L. 111-8, § 818; Sept. 26, 2012, D.C. Law 19-171, § 301, 59 DCR 6190.)

Legislative history of Law 19-171. — See note to § 47-369.02.

Editor's notes. — Section 301 of D.C. Law 19-171 enacted this subchapter into law.

Subchapter VII. Financial Responsibility and Management Assistance.

PART B.

ESTABLISHMENT AND ENFORCEMENT OF FINANCIAL PLAN AND BUDGET FOR DISTRICT GOVERNMENT.

§ 47-392.02. Process for submission and approval of financial plan and annual District budget.

(a) *Submission of preliminary financial plan and budget by Mayor.* — Not later than the February 1 preceding a fiscal year for which the District government is in a control period, the Mayor shall submit to the Authority and the Council a financial plan and budget for the fiscal year which meets the requirements of § 47-392.01.

(b) *Review by authority.* — Upon receipt of the financial plan and budget for a fiscal year from the Mayor under subsection (a) of this section, the Authority shall promptly review the financial plan and budget. In conducting the review, the Authority may request any additional information it considers necessary and appropriate to carry out its duties under this part.

(c) *Action upon approval of Mayor's preliminary financial plan and budget.* —

(1) *Certification to Mayor.* —

(A) *In general.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Mayor under subsection (a) of this section meets the requirements applicable under § 47-392.01:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Mayor shall promptly submit the financial plan and budget to the Council pursuant to § 1-204.42.

(B) *Deemed approval after 30 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, and Congress with a notice certifying approval under subparagraph (A)(i) of this paragraph or a statement of disapproval under subsection (d)(1) of this section upon the expiration of the 30-day period which begins on the date the Authority receives the financial plan and budget from the Mayor under subsection (a) of this section, the Authority shall be deemed to have approved the financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (A)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 30-day period described in sub-subparagraph (i) of this subparagraph.

(2) *Adoption of financial plan and budget by Council after receipt of approved financial plan and budget.* — Notwithstanding the first sentence of § 1-204.46, not later than 30 days after receiving the financial plan and budget for the fiscal year from the Mayor under paragraph (1)(A)(ii) of this subsection, the Council shall by Act adopt a financial plan and budget for the fiscal year which shall serve as the adoption of the budgets of the District government for the fiscal year under such section, and shall submit such financial plan and budget to the Mayor and the Authority.

(3) *Review of Council financial plan and budget by Authority.* — Upon receipt of the financial plan and budget for a fiscal year from the Council under paragraph (2) of this subsection (taking into account any items or provisions disapproved by the Mayor or disapproved by the Mayor and reenacted by the Council under § 1-204.04(f)), the Authority shall promptly review the financial plan and budget. In conducting the review, the Authority may request any additional information it considers necessary and appropriate to carry out its duties under this part.

(4) *Results of Authority review of Council's initial financial plan and budget.* —

(A) *Approval of Council's initial financial plan and budget.* — If the Authority determines that the financial plan and budget for the fiscal year

submitted by the Council under paragraph (2) of this subsection meets the requirements applicable under § 47-392.01:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Council shall promptly submit the financial plan and budget to the Mayor for transmission to the President and Congress under § 1-204.46.

(B) *Disapproval of Council's initial budget.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Council under paragraph (2) of this subsection does not meet the requirements applicable under § 47-392.01, the Authority shall disapprove the financial plan and budget, and shall provide the Mayor, the Council, the President, and Congress with a statement containing:

(i) The reasons for such disapproval;

(ii) The amount of any shortfall in the budget or financial plan; and

(iii) Any recommendations for revisions to the budget the Authority considers appropriate to ensure that the budget is consistent with the financial plan and budget.

(C) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (A)(i) of this paragraph or a statement of disapproval under subparagraph (B) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the financial plan and budget from the Council under paragraph (2) of this subsection, the Authority shall be deemed to have approved the financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (A)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(5) *Authority review of Council's revised financial plan and budget.* —

(A) *Submission of Council's revised financial plan and budget.* — Not later than 15 days after receiving the statement from the Authority under paragraph (4)(B) of this subsection, the Council shall promptly by Act adopt a revised financial plan and budget for the fiscal year which addresses the reasons for the Authority's disapproval cited in the statement, and shall submit such financial plan and budget to the Mayor and the Authority.

(B) *Approval of Council's revised financial plan and budget.* — If, after reviewing the revised financial plan and budget for a fiscal year submitted by the Council under subparagraph (A) of this paragraph in accordance with the procedures described in this subsection, the Authority determines that the revised financial plan and budget meets the requirements applicable under § 47-392.01:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Council shall promptly submit the financial plan and budget to the Mayor for transmission to the President and Congress under § 1-204.46.

(C) *Disapproval of Council's revised financial plan and budget.* —

(i) *In general.* — If, after reviewing the revised financial plan and budget for a fiscal year submitted by the Council under subparagraph (A) of this paragraph in accordance with the procedures described in this subsection, the Authority determines that the revised financial plan and budget does not meet the applicable requirements under § 47-392.01, the Authority shall:

(I) Disapprove the financial plan and budget;

(II) Provide the Mayor, the Council, the President, and Congress with a statement containing the reasons for such disapproval and describing the amount of any shortfall in the financial plan and budget; and

(III) Approve and recommend a financial plan and budget for the District government which meets the applicable requirements under § 47-392.01, and submit such financial plan and budget to the Mayor, the Council, the President, and Congress.

(ii) *Transmission of rejected financial plan and budget.* — The Council shall promptly submit the revised financial plan and budget disapproved by the Authority under this subparagraph to the Mayor for transmission to the President and Congress under § 1-204.46.

(D) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (B)(i) of this paragraph or a statement of disapproval under subparagraph (C) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the revised financial plan and budget submitted by the Council under subparagraph (A) of this paragraph, the Authority shall be deemed to have approved the revised financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (B)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(6) *Deadline for transmission of financial plan and budget by Authority.* — Notwithstanding any other provision of this section, not later than the June 15 preceding each fiscal year which is a control year, the Authority shall:

(A) Provide Congress with a notice certifying its approval of the Council's initial financial plan and budget for the fiscal year under paragraph (4)(A) of this subsection;

(B) Provide Congress with a notice certifying its approval of the

Council's revised financial plan and budget for the fiscal year under paragraph (5)(B) of this subsection; or

(C) Submit to Congress an approved and recommended financial plan and budget of the Authority for the District government for the fiscal year under paragraph (5)(C) of this subsection.

(d) *Action upon disapproval of Mayor's preliminary financial plan and budget.* —

(1) *Statement of disapproval.* — If the Authority determines that the financial plan and budget for the fiscal year submitted by the Mayor under subsection (a) of this section does not meet the requirements applicable under § 47-392.01, the Authority shall disapprove the financial plan and budget, and shall provide the Mayor and the Council with a statement containing:

(A) The reasons for such disapproval;

(B) The amount of any shortfall in the financial plan and budget; and

(C) Any recommendations for revisions to the financial plan and budget the Authority considers appropriate to ensure that the financial plan and budget meets the requirements applicable under § 47-392.01.

(2) *Authority review of Mayor's revised financial plan and budget.* —

(A) *Submission of Mayor's revised financial plan and budget.* — Not later than 15 days after receiving the statement from the Authority under paragraph (1) of this subsection, the Mayor shall promptly submit to the Authority and the Council a revised financial plan and budget for the fiscal year which addresses the reasons for the Authority's disapproval cited in the statement.

(B) *Approval of Mayor's revised financial plan and budget.* — If the Authority determines that the revised financial plan and budget for the fiscal year submitted by the Mayor under subparagraph (A) of this paragraph meets the requirements applicable under § 47-392.01:

(i) The Authority shall approve the financial plan and budget and shall provide the Mayor, the Council, the President, and Congress with a notice certifying its approval; and

(ii) The Mayor shall promptly submit the financial plan and budget to the Council pursuant to § 1-204.42.

(C) *Disapproval of Mayor's revised financial plan and budget.* —

(i) *In general.* — If the Authority determines that the revised financial plan and budget for the fiscal year submitted by the Mayor under subparagraph (A) of this paragraph does not meet the requirements applicable under § 47-392.01, the Authority shall:

(I) Disapprove the financial plan and budget;

(II) Shall provide the Mayor, the Council, the President, and Congress with a statement containing the reasons for such disapproval; and

(III) Recommend a financial plan and budget for the District government which meets the requirements applicable under § 47-392.01 and submit such financial plan and budget to the Mayor and the Council.

(ii) *Submission of rejected financial plan and budget.* — The Mayor shall promptly submit the revised financial plan and budget disapproved by the Authority under this subparagraph to the Council pursuant to § 1-204.42.

(D) *Deemed approval after 15 days.* —

(i) *In general.* — If the Authority has not provided the Mayor, the Council, the President, and Congress with a notice certifying approval under subparagraph (B)(i) of this paragraph or a statement of disapproval under subparagraph (C) of this paragraph upon the expiration of the 15-day period which begins on the date the Authority receives the revised financial plan and budget submitted by the Mayor under subparagraph (A) of this paragraph, the Authority shall be deemed to have approved the revised financial plan and budget and to have provided the Mayor, the Council, the President, and Congress with the notice certifying approval described in subparagraph (B)(i) of this paragraph.

(ii) *Explanation of failure to respond.* — If sub-subparagraph (i) of this subparagraph applies with respect to a financial plan and budget, the Authority shall provide the Mayor, the Council, the President and Congress with an explanation for its failure to provide the notice certifying approval or the statement of disapproval during the 15-day period described in sub-subparagraph (i) of this subparagraph.

(3) *Action by Council.* —

(A) *Adoption of financial plan and budget.* — Notwithstanding the first sentence of § 1-204.46, not later than 30 days after receiving the Mayor's approved revised financial plan and budget for the fiscal year under paragraph (2)(B) of this subsection or (in the case of a financial plan and budget disapproved by the Authority) the financial plan and budget recommended by the Authority under paragraph (2)(C)(i)(III) of this subsection, the Council shall by Act adopt a financial plan and budget for the fiscal year which shall serve as the adoption of the budgets of the District government for the fiscal year under such section, and shall submit the financial plan and budget to the Mayor and the Authority.

(B) *Review by Authority.* — The financial plan and budget submitted by the Council under subparagraph (A) of this paragraph shall be subject to review by the Authority and revision by the Council in the same manner as the financial plan and budget submitted by the Council after an approved preliminary financial plan and budget of the Mayor under paragraphs (3), (4), (5), and (6) of subsection (c) of this section.

(e) *Revisions to financial plan and budget.* —

(1) *Permitting Mayor to submit revisions.* — The Mayor may submit proposed revisions to the financial plan and budget for a control year to the Authority at any time during the year.

(2) *Process for review, approval, disapproval, and Council action.* — Except as provided in paragraph (3) of this subsection, the procedures described in subsections (b), (c), and (d) of this section shall apply with respect to a proposed revision to a financial plan and budget in the same manner as such procedures apply with respect to the original financial plan and budget, except that subparagraph (B) of subsection (c)(1) (relating to deemed approval by the Authority of a preliminary financial plan and budget of the Mayor) shall be applied as if the reference to the term "30-day period" were a reference to "20-day period".

(3) *Exception for revisions not affecting appropriations.* — To the extent that a proposed revision to a financial plan and budget adopted by the Council pursuant to this subsection does not increase the amount of spending with respect to any account of the District government, the revision shall become effective upon the Authority's approval of such revision (subject to review by Congress under § 1-206.02(c)).

(f) *Requirements for a Pay-as-you-go Capital Account.* —

(1) There is established a segregated, nonlapsing account within the Capital Fund to be designated as the Pay-as-you-go Capital Account.

(2) Beginning in fiscal year 2016, the annual proposed budget and financial plan submitted to the Council and the approved budget and financial plan submitted to the Congress of the United States shall include a Pay-as-you-go Capital Account for the upcoming fiscal year and each subsequent financial plan year.

(3) The annual amount of local funds deposited in the Pay-as-you-go Capital Account shall be equal to the projected local funds revenue of each year, minus the local funds revenue in the budget and financial plan approved May, 2015, multiplied by 25%.

(4) Funding under this subsection shall not be required if the debt service expenditures on all General Fund of the District of Columbia tax-supported debt equals or is less than 5% of General Fund of the District of Columbia expenditures.

(5)(A) All funds in the Pay-as-you-go Capital Account shall be used for the purpose of reducing future District borrowing for capital purposes by using the funds in the Pay-as-you-go Capital Account in lieu of proposed borrowing. Any use of these funds must be accompanied by the certification of the Chief Financial Officer that the funds are available in the Pay-as-you-go Capital Account and will be used to replace proposed District Bonds (as defined in § 47-443(2)(C)) that otherwise would have been issued for those purposes and that the District will not otherwise borrow such amounts for other purposes. Use of funds in the Pay-as-you-go Capital Account will reduce an identical amount in the existing Capital Improvements Program.

(B) For purposes of certification, including certification pursuant to the subchapter II of Chapter 3 of Title 47, the Chief Financial Officer shall certify that all expenditures from the Pay-as-you-go Capital Account, if treated as if they were expenditures from District Bond proceeds, assuming repayment at a level debt service with interest at the applicable rate obtained by the District in its most recent general obligation or income tax secured revenue bond offering, would not have caused the District to exceed the borrowing limitations contained in Subchapter II of Chapter 3 of Title 47.

(g) - (h) [Omitted].

(i) *Expedited submission and approval of consensus budget and financial plan.* — Notwithstanding any other provision of this section, if the Mayor, the Council, and the Authority jointly develop a financial plan and budget for the fiscal year which meets the requirements applicable under § 47-392.01 and which the Mayor, Council, and Authority certify reflects a consensus among them:

(1) Such financial plan and budget shall serve as the budget of the District government for the fiscal year adopted by the Council under § 1-204.46; and

(2) The Mayor shall transmit the financial plan and budget to the President and Congress under such section.

(j) *Reserve funds.* —

(1) *Budget reserve.* —

(A) *In general.* — For each of the fiscal years 2002 and 2003, the budget of the District government for the fiscal year shall contain a budget reserve in the following amounts:

(i) $120,000,000, in the case of fiscal year 2002.

(ii) $70,000,000, in the case of fiscal year 2003.

(B) *Availability of funds.* — Any amount made available from the budget reserve described in subparagraph (A) shall remain available until expended.

(C) *Availability of fiscal year 2001 budget reserve funds.* — For fiscal year 2001, any amount in the budget reserve shall remain available until expended.

(2) *Cumulative cash reserve.* — In addition to any other cash reserves required under section 450A of the District of Columbia Home Rule Act [§ 1-204.50a], for each of the fiscal years 2004 and 2005, the budget of the District government for the fiscal year shall contain a cumulative cash reserve of $50,000,000.

(3) *Conditions on use.* — The District of Columbia may obligate or expend amounts in the budget reserve under paragraph (1) or the cumulative cash reserve under paragraph (2) only in accordance with the following conditions:

(A) The Chief Financial Officer of the District of Columbia shall certify that the amounts are available.

(B) The amounts shall be obligated or expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(C) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(D) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.

(4) *Replenishment.* — Any amount of the budget reserve under paragraph (1) or the cumulative cash reserve under paragraph (2) which is expended in 1 fiscal year shall be replenished in the following fiscal year appropriations to maintain the required balance.

(j-1) *Fiscal Stabilization Reserve Account.* —

(1) The Chief Financial Officer shall create a segregated nonlapsing account within the cumulative General Fund of the District of Columbia ("General Fund") balance to be designated the Fiscal Stabilization Reserve Account.

(2) The Fiscal Stabilization Reserve Account may be used by the Mayor for those purposes permitted for use of the Contingency Reserve Fund (except for cash flow management purposes) specified in § 1-204.50a(b)(4), as certified by the Chief Financial Officer, with approval of the Council by act.

(3) At full funding, the Fiscal Stabilization Reserve Account shall be equal to 2.34% of the District's General Fund operating expenditures for each fiscal year.

(j-2) *Cash Flow Reserve Account.* —

(1) The Chief Financial Officer shall create a segregated nonlapsing account within the cumulative General Fund balance to be designated the Cash Flow Reserve Account.

(2) The Cash Flow Reserve Account may be used by the Chief Financial Officer to cover cash-flow needs; provided, that any amounts used must be replenished to the Cash Flow Reserve Account in the same fiscal year.

(3) At full funding, the Cash Flow Reserve Account shall be equal to 8.33% of the General Fund operating budget for each fiscal year.

(j-3) *Fund Balance Deposit Requirements.* — If either of the Fiscal Stabilization Reserve Account or the Cash Flow Reserve Account are below full funding, as specified in, respectively, subsections (j-1) and (j-2) of this section, immediately upon issue of the Comprehensive Annual Financial Report, the Chief Financial Officer shall deposit 50% of the undesignated end-of-year fund balance into each account, or 100% of the end-of-year fund balance into the remaining account that has not reached capacity, to fully fund these accounts to the extent that the undesignated end-of-year fund balance allows.

(j-4) If amounts required for the Emergency Cash Reserve Fund or the Contingency Reserve Fund pursuant to § 1-204.50a are reduced, the amount required to be deposited in Fiscal Stabilization Reserve Account shall be increased by a like amount.

(k) *Positive fund balance.* —

(1) *In general.* — The District of Columbia shall maintain at the end of a fiscal year an annual positive fund balance in the general fund of not less than 4 percent of the projected general fund expenditures for the following fiscal year.

(2) *Excess funds.* — Of funds remaining in excess of the amounts required by paragraph (1) of this subsection

(A) Not more than 50 percent may be used for authorized non-recurring expenses; and

(B) Not less than 50 percent shall be used to reduce the debt of the District of Columbia.

(Apr. 17, 1995, 109 Stat. 109, Pub. L. 104-8, § 202; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 779, Pub. L. 105-33, § 11603(b); Oct. 21, 1998, 112 Stat. 2681, Pub. L. 105-277, § 155; Apr. 20, 1999, D.C. Law 12-264, § 52(g), 46 DCR 2118; Nov. 29, 1999, 113 Stat. 1523, Pub. L. 106-113, § 148; Nov. 22, 2000, 114 Stat. 2440, Pub. L. 106-522, § 159(b); Dec. 21, 2001, 115 Stat. 923, Pub. L. 107-96,§ 133(a); Mar. 25, 2009, D.C. Law 17-360, § 2(d), 56 DCR 1200; Mar. 3, 2010, D.C. Law 18-111, § 7211(c), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 7162, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-370, § 792, 58 DCR 1008; Sept. 14, 2011, D.C. Law 19-21, § 7012(a)(3), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 8008, 59 DCR 8025.)

Section references. — This section is referenced in § 2-352.02, § 47-392.03, § 47-392.04, § 47-392.06, § 47-392.08, and § 47-393.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "fiscal year 2016" for "fiscal year 2013" in (f)(2); and substituted "May, 2015" for "May 24, 2011" in (f)(3).

Emergency legislation.

For temporary (90 day) amendment of section, see § 8008 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8008 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

CHAPTER 4. COLLECTION AND DISBURSEMENT OF TAXES.

Subchapter VI. Tax Revision Commission

Subchapter I. General Provisions.

§ 47-412.01. Time for performance of acts when last day falls on Saturday, Sunday, or legal holiday.

Editor's notes. — Section 4 of D.C. Law 19-155 added a section to D.C. Law 18-363 to read as follows:

"Sec. 3a. Applicability; transition.

"(a) Sections 2 and 3 shall apply upon Council approval and appointment by the Mayor of a full-time Chairperson and a full-time Vice Chairperson to the Real Property Tax Appeals Commission for the District of Columbia.

"(b) Notwithstanding subsection (a) of this section, the Mayor shall appoint the members of the Real Property Tax Appeals Commission for the District of Columbia with the advice and consent of the Council in accordance with the provisions of section 2(b)(3))."

Subchapter VI. Tax Revision Commission.

§ 47-462. Tax Revision Commission — Established; submission of recommendations.

(a) There is established a Tax Revision Commission ("Commission") with the purpose of preparing comprehensive recommendations to the Council and the Mayor which:

(1) Provide for fairness in apportionment of taxes;

(2) Broaden the tax base;

(3) Make the District's tax policy more competitive with surrounding jurisdictions;

(4) Encourage business growth and job creation; and

(5) Modernize, simplify, and increase transparency in the District's tax code.

(b) Specific functions of the Commission shall include the following:

(1) To analyze the District's current tax system in terms of revenue productivity and stability, efficiency, equity, simplicity of administration, and effect upon the District's economy;

(2) To propose innovative solutions for meeting the District's projected revenue needs while recommending potential modifications to tax rates;

(3) To identify economic activities which are either beneficial or detrimental to the District's economy and which should be either encouraged or discouraged through tax policy;

(4) To recommend changes in the District's current tax policies and laws;

(5) To establish criteria and a conceptual framework for evaluating current and future taxes;

(6) To identify unused and duplicative tax credits and tax abatements and recommend policy changes to improve the way the District utilizes tax expenditures; and

(7) To analyze a proposal to tax the capital gain from the sale of common or preferred shares of a Qualified High Technology Company, as defined in § 47-1817.01(5)(A), at the rate of 3% if the:

(A) Shares of the Qualified High Technology Company were held by the investor for at least 24 continuous months; and

(B) Qualified High Technology Company was headquartered in the District of Columbia on the date of sale.

(c) The Commission shall submit its recommendations in the form of a report or reports similar in form and scope as those transmitted by the District of Columbia Tax Revision Commission by letter dated June 2, 1998, and entitled "Taxing Simply, Taxing Fairly". The report or reports shall be accompanied by draft legislation, regulations, amendments to existing regulations, or other specific steps for implementing the recommendations.

(d) The Commission shall submit to the Council and the Mayor its final report no later than 9 months after the Commission's appointment.

(June 13, 1996, D.C. Law 11-143, § 3, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Sept. 14, 2011, D.C. Law 19-21, § 7062(b), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(c), 59 DCR 6190; Mar. 5, 2013, D.C. Law 19-211, § 2(a), 59 DCR 13281.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted a semicolon for the period at the end of (a)(3).

The 2013 amendment by D.C. Law 19-211 added (b)(7).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 19-211. — Law 19-211, the "Technology Sector Enhancement Act of 2012," was introduced in Council and assigned Bill No. 19-747. The Bill was adopted on first and second readings on Sept. 19, 2012, and Oct. 16, 2012, respectively. Signed by the Mayor on Nov. 1, 2012, it was assigned Act No. 19-513 and transmitted to Congress for its review. D.C. Law 19-211 became effective on Mar. 5, 2013.

§ 47-463. Tax Revision Commission — Composition; selection of Director.

(a) The Commission shall be a nonpartisan body composed of 11 members, including a Chairperson.

(b) The members of the Commission shall be appointed as follows:

(1) The Mayor shall appoint 5 members, of whom:

(A) Three shall be experts in the field of taxation, such as tax lawyers or public finance economists;

(B) One shall be a community representative, such as a leader of a public-interest group, labor union, civic association, or a tenant or housing association; and

(C) One shall be a representative of one or more important sectors of the business community, such as real estate, banking, retail, or high technology.

(2) The Chairman of the Council shall appoint 5 members, of whom:

(A) Three shall be experts in the field of taxation, such as tax lawyers or public finance economists;

(B) One shall be a community representative, such as a leader of a public-interest group, labor union, civic association, or a tenant or housing association; and

(C) One shall be a representative of one or more important sectors of the business community, such as real estate, banking, retail, or high technology.

(3) The Chief Financial Officer, or his or her designee, shall be an ex officio member of the Commission.

(4) The Chairman of the Council shall appoint one member of the Commission as the Chairperson of the Commission.

(c) All appointments shall be made within 60 days of [September 14, 2011]. A vacancy shall be filled in the same manner in which the initial appointment was made.

(d) The Commission, by a majority vote, shall select a Director who shall perform the duties required for the day-to-day functioning of the Commission as considered necessary by the members, including appointment of staff, selection of consultants, and the administration of meetings and report production.

(e) Each member of the Commission shall serve without compensation. Each member may be reimbursed for actual expenses pursuant to § 1-611.08.

(f) Members of the Commission shall act with the utmost integrity and professionalism. Each member shall avoid conflicts of interest and may seek the advice of the Office of the Attorney General to ensure that his or her duties are being discharged ethically.

(June 13, 1996, D.C. Law 11-143, § 4, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Sept. 14, 2011, D.C. Law 19-21, § 7062(c), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(p), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "§ 1-611.08" for "section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 2979 (§ 1-611.08)" in (e).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of

2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-464. Tax Revision Commission — Authority.

(a) The Chairperson of the Commission, or his or her designated representative, who must be a member of the Commission, shall convene all meetings of the Commission. Six members of the Commission shall constitute a quorum. Voting by proxy shall not be permitted.

(b) The Commission shall have the authority to create and operate under its own rules of procedure, consistent with this subchapter and Chapter 5 of Title 2 [§ 2-501 et seq.].

(c) All recommendations and reports prepared and submitted by the Commission shall be a matter of public record.

(d) The Commission, or committees thereof, may, for the purpose of carrying out the provisions of this subchapter, hold hearings, and shall sit and act at such times and places and administer oaths as required.

(e) The Commission shall have the authority to request directly from each department, agency, or instrumentality of the District Government, and each department, agency, or instrumentality is hereby authorized to furnish directly to the Commission upon its request, any information reasonably considered necessary by the Commission to carry out its functions under this subchapter.

(f) The Commission is authorized to use space and supplies owned or rented by the District government. The Commission is further authorized to use staff loaned from the Council or detailed by the Mayor for such purposes consistent with this subchapter as the Commission may determine.

(g) The Commission's operations shall be funded by annual appropriations, private sector assistance, or both.

(h) If a special fund is established by the Commission for the receipt of operating donations from non-government sources, the fund shall be administered in accordance with established funding and auditing procedures of the District government. The expenditure of such donations shall not be subject to appropriation. The Commission shall keep a record, available to the public for inspection, of all such donations and any substantial non-government in-kind contributions received. The record shall include the full name, address, and occupation or type of business of each donor. "Substantial non-government in-kind contributions" shall include any service reasonably valued at more than $5,000 which is received from any source other than the District or federal government.

(June 13, 1996, D.C. Law 11-143, § 5, 43 DCR 2170; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Sept. 14, 2011, D.C. Law 19-21, § 7062(d), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(q), 59 DCR 6190.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-171 substituted "this subchapter" for "this act" in (b), (d), (e), and (f); and substituted "Chapter 5

of Title 2" for "the Administrative Procedure Act, approved October 21, 1968 (§ 2-501 et seq.)" in (b).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 5. TAX RATES, RECORDS, AND SURPLUS FUNDS.

§ 47-501. Tax on real and personal property.

Section references. — This section is referenced in § 47-811.

Temporary Amendment of Section. — Section 2 of D.C. Law 19-220 amended this section to read as follows:

"For the purpose of defraying such expenses of the District of Columbia as Congress may from time to time appropriate for, there hereby is levied for each and every fiscal year, a tax at such rate on the real and personal property subject to taxation in the District as will, when added to the other taxes and revenues of the District, produce money enough to enable the District to pay promptly and in full all sums directed by Congress to be paid by the District, and for which appropriation has been duly made; and the Council of the District of Columbia hereby is empowered and directed to ascertain, determine, and fix, annually for real property, and at such times as it may deem necessary for personal property, such rate of taxation as will, when applied as aforesaid, produce the money needed to defray the share of the expenses of the District during the year for which the rate is fixed; provided, that the rate of taxation on personal property levied for any tax year shall apply to succeeding tax years unless the Council acts to ascertain, determine and fix a different rate of taxation thereon in accordance with the provisions of this section; and the Mayor of the District shall, in accordance with existing law, cause all such taxes and revenues to be promptly collected and, when collected, to be daily deposited in the Treasury to the credit of the District for the purposes herein set out. Beginning September 30, 2011, personal property tax shall be reported in the fiscal year in which it is collected."

Section 4(b) of D.C. Law 19-220 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary amendment of section, see § 2 of the Clarification of Personal Property Tax Revenue Reporting Emergency Act of 2012 (D.C. Act 19-507, October 26, 2012, 59 DCR 12772), applicable as of October 6, 2012.

For temporary amendment of section, see § 2 of the Clarification of Personal Property Tax Revenue Reporting Congressional Review Emergency Act of 2012 (D.C. Act 19-618, January 18, 2013, 60 DCR 1330), applicable as of January 4, 2013.

CHAPTER 8. REAL PROPERTY ASSESSMENT AND TAX.

Subchapter I. General Provisions

Subchapter II. Authority and Procedure to Establish Real Property Tax Rates

Subchapter I. General Provisions.

§ 47-802. Definitions.

For the purposes of this chapter:

(1) The term "real property" means real estate identified by plat on the records and cadastral maps of the Office of Tax and Revenue according to square, parcel or reservation and lot, together with improvements thereon.

(2) The term "Mayor" means the Mayor of the District of Columbia established under § 1-204.21.

(3) The term "Council" means the Council of the District of Columbia established under § 1-204.01.

(4) The term "estimated market value" means 100% of the most probable price at which a particular piece of real property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would be expected to transfer under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

(5) Unless otherwise provided in this chapter, the terms "owner" and "taxpayer" shall mean the following:

(A) An owner of record of real property; provided, that if real property is subject to an estate for life, or a lease or ground rent for a term (with renewals) that is at least 30 years, the holder of the possessory interest shall be deemed the owner for purposes of receiving notices of proposed assessed value, receiving bills, and filing any petition or appeal under this chapter; provided further, that the owner of record shall also retain the right to appeal under this chapter;

(B) For purposes of receiving notices of proposed assessed value, receiving bills, and filing any petition or appeal under this chapter, the lessee or user in § 47-1005.1 [§ 47-1005.01];

(C) One or more persons whose leasehold interest in a leasehold condominium, as defined in § 45-1802(18) [§ 42-1901.02(18)], comprises the entire balance of the unexpired term;

(D) One or more persons who meet the requirements of § 47-3502(a)(2)(B) in a single family residential property; or

(E)(i) A trust beneficiary who occupies real property owned of record by the trustee, as sole owner, of an irrevocable special needs trust if the trust beneficiary has a disability as defined in section 1614(a)(3) of the Social Security Act, approved October 30, 1972 (86 Stat. 1471; 42 U.S.C. § 1382c(a)(3)).

(ii) For the purposes of sub-subparagraph (i) of this subparagraph, a trust is a special needs trust if the trust instrument:

(I) States, among its purposes, that the trust assets are not intended to be counted in determining the beneficiary's eligibility for needs-based governmental benefits; and

(II)(aa) Names the beneficiary with a disability as the sole trust beneficiary during his or her lifetime; and

(bb) Provides that the [beneficiary with a disability] shall not serve as trustee.

(6) The term "regulation", unless specifically identified as a regulation of the Commissioner, means a regulation of the Council enacted under § 406 of the Reorganization Plan No. 3 of 1967, and after January 2, 1975, such term means an act of the Council of the District of Columbia enacted under § 412 (and related sections) of the District of Columbia Home Rule Act [§ 1-204.12].

(7) The term "tax year" means the period beginning October 1st each year and ending September 30th each succeeding year.

(8) The term "valuation date" means January 1 of the preceding real property tax year.

(9) The term "phased-in assessed value" means the assessed value which is increased each year of a 3-year cycle in increments of one-third the assessed value.

(10) The term "3-year cycle" means 3 continuous tax years for which the assessed value of real property shall be determined.

(11) The term "limited-equity cooperative" means a cooperative required by a government agency or nonprofit organization to limit the resale price of membership shares for the purposes of keeping the housing affordable to incoming members that are low and moderate income.

(12) The term "carrying charge subsidies" means any payment, originating directly or indirectly, with a federal or local government housing agency, used to supplement the monthly housing payments of individual cooperative members.

(13) [Expired.]

(14) The term "cost-of-living adjustment" for any real property tax year means an amount equal to the dollar amount of the homestead deduction provided in §§ 47-850(a) and 47-850.01(a) multiplied by the difference between the Consumer Price Index for the preceding real property tax year and the Consumer Price Index for the real property tax year beginning October 1, 2010, divided by the Consumer Price Index for the real property tax year beginning October 1, 2010. For the purposes of this paragraph, the Consumer Price Index for any real property tax year is the average of the Consumer Price

Index for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on September 30 of such real property tax year.

(15) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(Sept. 3, 1974, 88 Stat. 1051, Pub. L. 93-407, title IV, § 403; Dec. 18, 1979, D.C. Law 3-40, § 4, 26 DCR 1950; Nov. 17, 1981, D.C. Law 4-51, § 4, 28 DCR 4345; Oct. 8, 1983, D.C. Law 5-31, § 10(e), 30 DCR 3879; Sept. 30, 1993, D.C. Law 10-25, § 101(a), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 23, 1997, D.C. Law 12-40, § 101(a), 44 DCR 4859; June 9, 2001, D.C. Law 13-305, § 502(a), 48 DCR 334; Oct. 26, 2001, D.C. Law 14-42, § 10(b), 48 DCR 7612; Apr. 4, 2003, D.C. Law 14-282, § 11(e), 50 DCR 896; Mar. 13, 2004, D.C. Law 15-105, § 26(c)(1), 51 DCR 881; Oct. 20, 2005, D.C. Law 16-33, §§ 1276(a), 1297(a)(1), 52 DCR 7503; May 12, 2006, D.C. Law 16-98, § 2(a), 53 DCR 1869; Apr. 24, 2007, D.C. Law 16-305, § 73(a), 53 DCR 6198; Sept. 18, 2007, D.C. Law 17-20, § 1032(a), 54 DCR 7052; Sept. 12, 2008, D.C. Law 17-231, § 41(a), 55 DCR 6758.; Mar. 25, 2009, D.C. Law 17-353, § 215(a), 56 DCR 1117; Sept. 20, 2012, D.C. Law 19-168, § 7072(a)(1), 59 DCR 8025.)

Section references. — This section is referenced in § 42-405, § 42-1102, § 42-2301, § 42-3131.05, § 47-825.01, § 47-825.01a, § 47-830, § 47-849, § 47-895.01, § 47-895.31, § 47-1818.01, § 47-3504, § 47-4613, § 47-4616, and § 47-4630.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168, in the first sentence of (14), substituted "the dollar amount of the homestead deduction provided in §§ 47-850(a) and 47-850.01(a)" for "$ 64,000," substituted "difference between" for "percentage by which," substituted "and" for "exceeds" following the second occurrence of "tax year," and substituted "October 1, 2010, divided by the Consumer Price Index for the real property tax year beginning October 1, 2010" for "October 1, 2006."

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter II. Authority and Procedure to Establish Real Property Tax Rates.

§ 47-811.02. Overpayment; credit or refund; interest.

(a) Subject to subsection (b) of this section, if there is a payment of real property tax that results in an overpayment for a billing period or levy with priority, the overpayment shall be credited in order of priority against the real property tax owing on the property for a subsequent billing period or levy.

(b) The Mayor shall refund the payment, less the real property tax owing, to the person who made the payment; provided, that the refund shall not be allowed unless:

(1) A claim for refund within 3 years from the date the payment was made;

(2) The Mayor corrected or changed an assessment or real property classification under § 47-825.01(h-1) which created the overpayment;

(3) The property has been so reassessed under § 47-831 that an overpayment resulted f the periods of reassessment;

(4) The tax was abated for reasonable cause under § 47-1007; or

(5) The refund results from the grant of a real property tax exemption.

(c) A claim for refund shall be made in the manner prescribed by the Mayor.

(d) The District of Columbia shall pay interest on the overpayment beginning 90 days after the receipt of the claim for refund.

(e) The interest payable by the District under subsection (d) of this section shall be at the rate provided in § 47-3310(c).

(f) The owner, after seeking refund of the overpayment as set forth in this section, may, within one year from the last day of the tax year in which the claim for refund was made, file suit in the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, that the real property tax, including any penalties and interest, shall have first been paid.

(g) This section shall not apply to an action timely filed under § 47-825.01(j-1) and (j-2).

(June 9, 2001, D.C. Law 13-305, § 504(a)(2), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(f), 50 DCR 896; July 13, 2012, D.C. Law 19-155, § 3(a), 59 DCR 5590.)

Section references. — This section is referenced in § 47-4630.

Effect of amendments.

D.C. Law 19-155, in subsec. (b)(2), substituted "The Office of Tax and Revenue has" for "The Mayor" and "§ 47-825.01a(f)" for "§ 47-825.01(h-1)"; in subsec. (g), substituted "§ 47-825.01a(g) and (h)" for "§ 47-825.01(j-1) and (j-2)".

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

§ 47-812. Establishment of rates.

(a) The Council, after public hearing, shall by October 15 of each year establish, by act, rates of taxation, by class, as provided in § 47-813, and the rates shall be applied, during the tax year, to the assessed value of all real property subject to taxation. The Council, acting by resolution, may extend the time for establishing the rates of taxation. If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.

(a-1) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable property in the District of Columbia for the tax year beginning October 1, 1994, and ending September 30, 1995, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.

(a-2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for

the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.

(b) Notwithstanding the provisions of subsection (a) of this section, the following real property tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1995, and ending September 30, 1996:

(1) $0.3659 for each $100 of assessed value for Class 1 Property;

(2) $0.5869 for each $100 of assessed value for Class 2 Property;

(3) $0.7050 for each $100 of assessed value for Class 3 Property;

(4) $0.8194 for each $100 of assessed value for Class 4 Property; and

(5) $1.9055 for each $100 of assessed value for Class 5 Property.

(b-1) Notwithstanding the provisions of section 413, subsection (a) of this section, or any other law imposing requirements on the enactment of these tax rates, the following real property tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1996, and ending September 30, 1997:

(1) $0.3936 (for each $100 of assessed value) for Class One Property;

(2) $0.6314 (for each $100 of assessed value) for Class Two Property;

(3) $0.7585 (for each $100 of assessed value) for Class Three Property;

(4) $0.8815 (for each $100 of assessed value) for Class Four Property; and

(5) $2.0500 (for each $100 of assessed value) for Class Five Property.

(b-2) Notwithstanding the provisions of subsection (a) of this section, the following real property tax rates are established for taxable real property in the District of Columbia for the tax year beginning October 1, 1997, and ending September 30, 1998:

(1) $0.2400 for each $100 of assessed value for Class 1 Property;

(2) $0.3850 for each $100 of assessed value for Class 2 Property;

(3) $0.4625 for each $100 of assessed value for Class 3 Property;

(4) $0.5375 for each $100 of assessed value for Class 4 Property; and

(5) $1.2500 for each $100 of assessed value for Class 5 Property.

(b-3) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and the special real property tax rates for taxable property in the District of Columbia for the tax year beginning October 1, 1999, and ending September 30, 2000, shall be:

(1) $0.96 for each $100 of assessed value for Class 1 Property;

(2) $1.34 for each $100 of assessed value for Class 2 Property;

(3) $1.85 for each $100 of assessed value for Class 3 Property; and

(4) $2.05 for each $100 of assessed value for Class 4 Property.

(b-4)(1) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and the special real property tax rates for taxable property in the District of Columbia for the tax year beginning October 1, 2000, and ending September 30, 2001, shall be:

(A) $0.96 for each $100 of assessed value for Class 1 Property;

(B) $1.15 for each $100 of assessed value for Class 2 Property;

(C) $1.85 for each $100 of assessed value for Class 3 Property; and

(D) $1.95 for each $100 of assessed value for Class 4 Property.

(2) Paragraph (1) of this subsection shall not apply if the certification by the Chief Financial Officer required by § 47-387.01 demonstrates that the accumulated general fund balance for the immediately preceding fiscal year is below 5% of the general fund operating budget for the current fiscal year, the nominal GDP growth is less than or equal to 3.5% or the real GDP growth is less than or equal to 1.7%.

(b-5)(1) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and the special real property tax rates for taxable property in the District of Columbia for the tax year beginning October 1, 2001, and ending September 30, 2002, shall be:

(A) $0.96 for each $100 of assessed value for Class 1 Property; and

(B) $1.85 for each $100 of assessed value for Class 2 Property.

(2) Repealed.

(3) $1.1450 for each $100 of assessed value for Class 3 Property;

(4) $1.3306 for each $100 of assessed value for Class 4 Property; and

(5) $3.0945 for each $100 of assessed value for Class 5 Property.

(b-6) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and the special real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 2002, shall be:

(1) $0.96 for each $100 of assessed value for Class 1 Property;

(2) $1.85 for each $100 of assessed value for Class 2 Property; and

(3) $5.00 for each $100 of assessed value for Class 3 Property.

(b-7) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 2005, shall be:

(1) $0.92 for each $100 of assessed value for Class 1 Property;

(2) $1.85 for each $100 of assessed value for Class 2 Property; and

(3) $5.00 for each $100 of assessed value for Class 3 Property.

(b-8)(1)(A) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 1 Property in the District of Columbia for the tax year beginning October 1, 2006, and each tax year thereafter, shall be established as follows:

(i)(I) For the tax year beginning October 1, 2006, the Mayor shall compute the real property tax rate (rounded up to the nearest penny) for Class 1 Properties calculated to yield in the tax year the same amount of taxes estimated to be collected, as certified in the latest revenue estimate, during the tax year beginning October 1, 2005, plus 9%.

(II) Before September 16, 2006, the Mayor shall submit to the Council the real property tax rate computed under sub-sub-subparagraph (I) of this sub-subparagraph.

(ii)(I) For the tax year beginning October 1, 2007, the Mayor shall compute the real property tax rate (rounded up to the nearest penny) for Class 1 Properties calculated to yield in the tax year the same amount of taxes estimated to be collected, as certified in the latest revenue estimate, during the tax year beginning October 1, 2006, plus 8%.

(II) Before September 16, 2007, the Mayor shall submit to the Council the real property tax rate computed under sub-sub-subparagraph (I) of this sub- subparagraph.

(iii)(I) For the tax year beginning October 1, 2008, the Mayor shall compute the real property tax rate (rounded up to the nearest penny) for Class 1 Properties calculated to yield in the tax year the same amount of taxes estimated to be collected, as certified in the latest revenue estimate, during the tax year beginning October 1, 2007, plus 7%.

(II) Before September 16, 2008, the Mayor shall submit to the Council the real property tax rate computed under sub-sub-subparagraph (I) of this sub-subparagraph.

(iv)(I) For the tax year beginning October 1, 2009, and each tax year thereafter, the Mayor shall compute the real property tax rate (rounded up to the nearest penny) for Class 1 Properties calculated to yield in the tax year the same amount of taxes estimated to be collected, as certified in the latest revenue estimate, during the preceding tax year, plus the lesser of:

(aa) Seven percent; or

(bb) The percentage increase in the total aggregate assessment of taxable real property for Class 1 Properties.

(II) Before September 16, 2009, and each anniversary thereafter, the Mayor shall submit to the Council the real property tax rate computed under sub-sub-subparagraph (I) of this sub-subparagraph.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, if, for the current tax year, the total aggregate assessment of taxable real property for Class 1 Properties is estimated to decrease, the real property tax rate for Class 1 Properties shall be the real property tax rate for the prior tax year.

(2) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 2 and 3 Properties in the District of Columbia for the tax year beginning October 1, 2006, and each tax year thereafter, shall be:

(A) Repealed.

(B) $5.00 for each $100 of assessed value for Class 3 Property.

(b-9)(1) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 2 Properties in the District of Columbia for the tax year beginning October 1, 2008, shall be:

(A) For the first $3 million of assessed value, $1.55 of each $100 of assessed value; and

(B) For the portion of the assessed value exceeding $3 million, $1.85 of each $100 of assessed value.

(2)(A) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 2 Property in the District of Columbia for the tax year beginning October 1, 2009, and each tax year thereafter, shall be:

(i) For the first $3 million of assessed value, the rate as established in subparagraph (B) of this paragraph; provided, that for the tax year beginning October 1, 2013, the tax rate shall be $1.55 of each $100 of assessed value; and

(ii) For the portion of the assessed value exceeding $3 million, $1.85 of each $100 of assessed value.

(B)(i) The Chief Financial Officer shall compute the real property tax rate for the first $3 million of assessed value for taxable Class 2 Properties in the District of Columbia, for the tax year beginning October 1, 2009, as follows:

(I) The Chief Financial Officer shall subtract $1,312,793,900 from the estimated real property taxes to be collected for Class 2 Properties based upon a rate of $1.85 of each $100 of assessed value.

(II) The Chief Financial Officer shall compute the real property tax rate (rounded up to the nearest penny) for the first $3 million of assessed value for taxable Class 2 Properties by taking the amount yielded by sub-sub-subparagraph (I) of this sub-subparagraph and, if it is a positive number, applying this amount to reduce the real property tax rate; provided, that the real property tax rate shall not be less than $.90 of each $100 of assessed value.

(ii) The Chief Financial Officer shall compute the real property tax rate for the first $3 million of assessed value for taxable Class 2 Properties in the District of Columbia, for the tax year beginning October 1, 2010, and each tax year thereafter, as follows:

(I) The Chief Financial Officer shall multiply the total amount of taxes received for taxable Class 2 Properties in the District of Columbia for the prior fiscal year by 110%.

(II) The Chief Financial Officer shall subtract the amount yielded by sub-sub-subparagraph (I) of this sub-subparagraph from the estimated real property taxes to be collected for Class 2 Properties based upon a rate of $1.85 of each $100 of assessed value.

(III) The Chief Financial Officer shall compute the real property tax rate (rounded up to the nearest penny) for the first $3 million of assessed value for taxable Class 2 Properties by taking the amount yielded by sub-sub-subparagraph (II) of this sub-subparagraph and, if it is a positive number, applying this amount to reduce the real property tax rate; provided, that the real property tax rate shall not be less than $.90 of each $100 of assessed value.

(iii) Before September 16 of each year, the Chief Financial Officer shall submit to the Council the real property tax rate computed under this subparagraph.

(3) The real property tax rate computed in paragraph (2) of this subsection shall only reduce the real property tax rate. If revenues increase by less than the amount needed to reduce the real property tax rate, the real property tax rate shall be equal to the real property tax rate of the prior fiscal year.

(b-10)(1) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 3 Properties in the District of Columbia for the tax year beginning October 1, 2010, and each tax year thereafter, shall be $5 for each $100 of assessed value.

(2) Notwithstanding the provisions of subsection (a) of this section, the sum of the real property tax rates and special real property tax rates for taxable Class 4 Properties in the District of Columbia for the tax year beginning October 1, 2010, and each tax year thereafter, shall be $ 10 for each $ 100 of assessed value.

(c) Pursuant to section 9 of the General Obligation Bond Act of 1994, effective May 3, 1994 (D.C. Law 10-116; 41 DCR 1224), the following real property special tax rates are established for taxable real property in the District of Columbia for the real property tax year beginning October 1, 1995, and ending September 30, 1996:

(1) $0.5941 for each $100 of assessed value for Class 1 Property;

(2) $0.9531 for each $100 of assessed value for Class 2 Property;

(3) $1.1450 for each $100 of assessed value for Class 3 Property;

(4) $1.3306 for each $100 of assessed value for Class 4 Property; and

(5) $3.0945 for each $100 of assessed value for Class 5 Property.

(c-1) Notwithstanding the provisions of section 413, subsection (c) of this section, or any other law imposing requirements on the enactment of these tax rates, pursuant to section 9 of the General Obligation Bond Act of 1994, effective May 3, 1994 (D.C. Law 10-116; 41 DCR 1224), the following real property special tax rates are established for taxable real property in the District of Columbia for the real property tax year that begins October 1, 1996, and ends September 30, 1997:

(1) $0.5664 (for each $100 of assessed value) for Class One Property;

(2) $0.9086 (for each $100 of assessed value) for Class Two Property;

(3) $1.0915 (for each $100 of assessed value) for Class Three Property;

(4) $1.2685 (for each $100 of assessed value) for Class Four Property; and

(5) $2.9500 (for each $100 of assessed value) for Class Five Property.

(c-2) Pursuant to section 9 of the General Obligation Bond Act of 1996, effective October 1, 1996 (D.C. Law 11-162; 43 DCR 5432), the following real property special tax rates are established for taxable real property in the District of Columbia for the tax year beginning October 1, 1997, and ending September 30, 1998:

(1) $0.7200 for each $100 of assessed value for Class 1 Property;

(2) $1.1550 for each $100 of assessed value for Class 2 Property;

(3) $1.3875 for each $100 of assessed value for Class 3 Property;

(4) $1.6125 for each $100 of assessed value for Class 4 Property; and

(5) $3.7500 for each $100 of assessed value for Class 5 Property.

(d) For purposes of this section, the terms "Class 1 Property", "Class 2 Property", "Class 3 Property", "Class 4 Property", and "Class 5 Property" each has the same meaning as the terms have in § 47-813(c-2)(1), (2), (3), (4), and (5).

(e) The Mayor of the District of Columbia shall issue rules necessary to implement subsections (b) through (d) of this section.

(Sept. 3, 1974, 88 Stat. 1052, Pub. L. 93-407, title IV, § 412; June 15, 1976, D.C. Law 1-70, title III, §§ 302(a), 305, 23 DCR 538, 540; Mar. 3, 1979, D.C. Law 2-130, § 3(a), 25 DCR 2517; Nov. 20, 1979, D.C. Law 3-37, § 2(a), 26 DCR 1564; Mar. 13, 1985, D.C. Law 5-125, § 2, 31 DCR 5180; Nov. 19, 1985, D.C. Law 6-51, § 3(a), 32 DCR 5681; Oct. 1, 1987, D.C. Law 7-28, § 2, 34 DCR 5094; Sept. 29, 1988, D.C. Law 7-161, § 2(a), (b), 35 DCR 5730; Oct. 19, 1989, D.C. Law 8-46, § 2(b), (c), 36 DCR 5783; Sept. 27, 1990, D.C. Law 8-172, § 2(d), 37 DCR 4844; Mar. 7, 1992, D.C. Law 9-62, § 2(b), (c), 38 DCR 7291; Oct. 7, 1992,

D.C. Law 9-177, § 2, 39 DCR 5868; Jan. 26, 1994, D.C. Law 10-66, § 2, 40 DCR 7358; June 14, 1994, D.C. Law 10-127,§ 5(a), 41 DCR 2050; Sept. 26, 1995, D.C. Law 11-52, § 104(a), 42 DCR 3684; Mar. 5, 1996, D.C. Law 11-98, § 1301, 43 DCR 5; Apr. 26, 1996, 110 Stat. 1321 211, Pub. L. 104-134, § 135(1); Apr. 9, 1997, D.C. Law 11-222, § 2, 44 DCR 108; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 10, 1998, D.C. Law 12-122, § 2(a), 45 DCR 2300; Oct. 20, 1999, D.C. Law 13-38, § 2702(b), 46 DCR 6373; Apr. 12, 2000, D.C. Law 13-91, § 156(b), 47 DCR 520; June 5, 2003, D.C. Law 14-307, § 1303(a), 49 DCR 11664; Oct. 20, 2005, D.C. Law 16-33, §§ 1262(a), 1272, 52 DCR 7503; Mar. 20, 2008, D.C. Law 17-123, § 3(a), 55 DCR 1513; Aug. 15, 2008, D.C. Law 17-216, § 4(a), 55 DCR 7500; Aug. 16, 2008, D.C. Law 17-219, § 7006, 55 DCR 7598; Sept. 24, 2010, D.C. Law 18-223, § 2043(a), 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 8102,; Sept. 20, 2012, D.C. Law 19-168, § 7092, 59 DCR 8025.)

Section references. — This section is referenced in § 47-811, § 47-815, § 47-1005.01, and § 47-4640.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "$1.55" for "$1.65" in (b-9)(1)(A) and (b-9)(2)(A)(i); and substituted "October 1, 2013" for "October 1, 2011" in (b-9)(2)(A)(i).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Editor's notes.

Section 7093 of D.C. Law 19-168 provided that this subtitle shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 1002(a)(1) through (14) of the Revised Revenue Estimate Contingency Priority List Act of 2012 (D.C. Law 19-168).

§ 47-820. Assessments — Estimated assessment roll; frequency of assessments.

(a)(1) The assessed value of all real property as of the valuation date shall be listed annually on the estimated assessment roll for real property taxation purposes.

(2) Repealed.

(3) The assessed value for all real property shall be the estimated market value of such property as of the valuation date, as determined by the Mayor. In determining the estimated market value for various kinds of real property, the Mayor may do so manually or through the use of an automated system or systems such as the Computer-Assisted Mass Appraisal System. The Mayor shall take into account any factor that may have a bearing on the market value of the real property, including, but not limited to, sales information on similar types of real property, mortgage, or other financial considerations, reproduction cost less accrued depreciation because of age, condition, and other factors, income-earning potential (if any), zoning, and government-imposed restrictions. Assessments shall be based upon the sources of information available to the Mayor, which may include actual view.

(4) Notwithstanding paragraph (3) of this subsection, in the case of a property receiving the homestead deduction under § 47-850 or § 47-850.01 for which the most recent assessment has been changed as a result of an appeal

to the Real Property Tax Appeals Commission for the District of Columbia in accordance with § 47-825.01a [repealed], the reasons for the revised assessment determined by the Board shall be considered the basis for the subsequent valuation by the Mayor, who shall take into account the written decision of the Board and its reasoning in making the assessment, so long as the revised assessment is rendered by the Board on or before January 1.

(5) [Not funded]

(a-1) Notwithstanding subsection (a) of this section, the real property tax year 1998 assessed value of all real property, subject to appeal pursuant to § 47-825.01 [repealed], shall be the real property tax year 1997 assessed value; provided, that for the purposes of appeal, the valuation date for real property tax year 1998 real property assessments shall be January 1, 1997. For purposes of determining the real property tax year 1998 assessment, the 1997 assessment with the latest date shall be the final 1997 assessment by the Mayor unless the assessment was otherwise revised by the Real Property Tax Appeals Commission for the District of Columbia or the Superior Court of the District of Columbia. In the case of a revision, the 1997 assessment shall be the assessment as determined by the Real Property Tax Appeals Commission for the District of Columbia or the Superior Court.

(a-2) Subsection (a-1) of this section shall not affect the authority of the Mayor pursuant to § 47-829, to conduct a supplemental assessment of any property located in the District and shall not affect the right of a real property owner pursuant to § 47-830, to appeal from the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia.

(b) Except as provided in subsection (b-1) and (b-2) of this section, all real property shall be assessed no less frequently than once every 2 years, and as soon as practicable such assessment shall be made annually. The Council may authorize and direct assessments to be made annually for some or all classes of real property, except that for fiscal year 1978, and for each fiscal year thereafter, all real property shall be assessed on an annual basis.

(b-1)(1) Beginning with tax year 1999 and for each tax year thereafter, all real property shall be assessed at least once every 3 years and the resulting assessment shall be in effect for the next 3 consecutive tax years unless the assessment is otherwise revised as a result of any of the following:

(A) An appeal filed pursuant to § 47-825.01;

(B) An administrative correction made in accordance with § 47-825.01;

(C) A supplemental assessment conducted pursuant to § 47-829;

(D) A substantive change in the use of the real property;

(E) A change in the zoning for the area in which the real property is located;

(F) A change in the classification of the real property, unless the change in classification is in furtherance of § 47-813(c-4) due to the mergence of former classes into a single class by operation of law;

(G) A substantial change occurs to the physical make up of the real property; or

(H) A substantial error occurs in the assessment of the real property.

(2) When real property is assessed under this section, an increase in the overall assessed value shall be phased in over the 3-year period of a 3-year

cycle or the remaining portion of the cycle; provided, that under § 47-829, an increase in the improvement value under a supplemental assessment shall not be phased in.

(b-2) Notwithstanding subsection (b-1) of this section, for real property tax year 2002 and for each tax year thereafter, all real property which has completed its first 3-year cycle shall thereafter be revalued annually to determine its assessed value as of the valuation date. The assessed value of the real property revalued under this subsection shall not be phased in and the tax rate shall be applied to the assessed value for purposes of the tax year's levy.

(c) Repealed.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(Sept. 3, 1974, 88 Stat. 1053, Pub. L. 93-407, title IV, § 421; Jan, 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 6(c), (d); June 14, 1994, D.C. Law 10-127, § 5(c), 41 DCR 2050; Apr. 9, 1997, D.C. Law 11-223, § 2(b), 44 DCR 111; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 23, 1997, D.C. Law 12-40, § 101(c), 44 DCR 4859; June 9, 2001, D.C. Law 13-305,§ 502(k)-(n), 48 DCR 334; Oct. 3, 2001, D.C. Law 14-28, § 2002(d), 48 DCR 6981; Oct. 19, 2002, D.C. Law 14-213, § 33(e), 49 DCR 8140; Apr. 5, 2005, D.C. Law 15-272, § 2, 52 DCR 823; Feb. 27, 2008, D.C. Law 17-112, § 2, 55 DCR 1864; Apr. 8, 2011, D.C. Law 18-363, § 3(g)(3), 58 DCR 963; July 13, 2012, D.C. Law 19-155, § 3(b), 59 DCR 5590.)

Section references. — This section is referenced in § 47-821, § 47-824, § 47-825.01, § 47-825.01a, § 47-829, and § 47-1005.01.

Effect of amendments.

D.C. Law 19-155, in subsec. (b-1), substituted "§ 47-825.01a" for "§ 47-825.01".

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

§ 47-821. Residential real property subject to certain affordability and resale restrictions — General duties of Mayor; appointment of assessors; submission of information by property owners.

(a) The Mayor shall assess all real property, identifying separately the value of land and improvements thereon, and administer and collect the real property tax within the District. The Mayor shall also notify owners of real property of assessments and of appeal procedures. In addition, he shall maintain adequate records relating to the administration of the real property tax in the District, and provide appropriate public information concerning such tax.

(b) The Mayor shall appoint assessors competent to determine values of real property to carry out the provisions of §§ 47-820 to 47-828 and other relevant portions of this chapter. Each person so appointed shall take and subscribe an

oath to diligently, faithfully, and impartially assess all real property according to applicable law and regulations and otherwise perform the duties of office.

(c) The Mayor shall assure that information regarding the characteristics of real property, sales and exchanges of all such property, building permits, land use plans, and any other information pertinent to the assessment process shall be made available to the assessors on a timely basis.

(d)(1) The Mayor may require an owner of real property to submit such information relating to the transfers of ownership, construction or reproduction costs, and income or economic benefits derived from such property as in the Mayor's judgment will assist in the determination of the estimated market value required under this title. If an owner of real property in the District of Columbia fails to submit such information within the time and in the form prescribed, there shall be added to the real property tax levied upon the property in question for the next ensuing tax year the amount of 10% of said tax; provided, that when such information is provided after said time and it is shown that the failure to provide it was due to reasonable cause, no such addition shall be made to the tax.

(2)(A) Except as otherwise provided in this chapter or under a court order, an officer, former officer, employee, or former employee of the District may not open valuation records for public inspection or reveal any information contained in valuation records. For purposes of this section, the term "valuation records" means:

(i) Information regarding private appraisals, actual building costs, rental data, or business volume;

(ii) Income or expense forms; and

(iii) Rent rolls.

(B) Notwithstanding subparagraph (A) of this paragraph, the Mayor shall permit a valuation record of a real property to be inspected by:

(i) An owner or authorized agent of the property that is the subject of the valuation record; or

(ii) An official of the District of Columbia executive branch acting in his official capacity, having a right thereto in his official capacity; provided, that no official shall inspect or use, in any review or appeal under this chapter, any information provided to the Mayor under § 47-820(d) [(d) repealed] or this section, other than information provided to the Mayor for the real property under review or appeal; provided further, that nothing contained in this subsection shall be construed to:

(I) Prohibit the use by the official, in reviews or appeals, of statistical data in a form which ensures that the identification of a particular real property shall not be disclosed. The particular valuation records therefrom shall not be divulged or made known; or

(II) Prohibit the official from offering any information of the subject real property provided to defend the assessment of the subject real property in a review or appeal under this chapter.

(C) A violation of this paragraph shall be a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding $1,000, by imprisonment for not more than 180 days, or both. All prosecutions under this

subparagraph shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District of Columbia.

(e)(1) The Office of the Inspector General shall arrange for an independent audit of the Office of Tax and Revenue for the purposes of examining the District's management and valuation of commercial real property assessments. The independent audit shall be prepared by an outside firm, such as the International Association of Assessing Officers, that is knowledgeable and experienced in real property appraisal, assessment administration, and real property tax policy, with a demonstrated history of assisting local and state governments in evaluating assessment practices.

(2) The scope of the audit shall include the following:

(A) An evaluation of the commercial real property assessment process;

(B) An evaluation of the organizational structure, workload statistics, performance measures, compensation requirements, staffing levels, training, qualifications, and staff development functions; and

(C) An examination of hiring practices, including whether the human resources rules and regulations to which the Office of the Chief Financial Officer is subject, hinder or enhance the ability of the Office of Tax and Revenue to attract, develop, and retain a well-qualified workforce.

(3) The independent audit shall include recommendations for improving the commercial real property assessment functions within the Office of Tax and Revenue.

(4) The Office of the Inspector General shall submit a complete copy of the 1st audit findings, along with all of the recommendations made by the firm which performed the independent audit, to the Council, the Mayor, and the Chief Financial Officer on or before December 1, 2010. Thereafter, the Office of the Inspector General shall arrange for and submit a report meeting the requirements of this section at least once every 3 years, or sooner upon request of the Council or the Mayor.

(f) The Chief Financial Officer shall submit to the Council, no later than July 1, 2010, an examination of the District's performance for the last 5 years in commercial real property valuation cases appealed by a taxpayer from the Real Property Tax Appeals Commission for the District of Columbia and decided by the Superior Court of the District of Columbia ("Superior Court") or the District of Columbia Court of Appeals. The information to be provided for each case shall include:

(1) Initial valuation of the subject property by the Office of Tax and Revenue;

(2) The Real Property Tax Appeals Commission for the District of Columbia decision on the taxpayer's appeal;

(3) Valuation of the subject property presented at trial in Superior Court by the Office of the Attorney General on behalf of the Office of Tax and Revenue;

(4) Valuation of the property presented by the taxpayer at trial in Superior Court; and

(5) The final valuation decision ordered by Superior Court or the District of Columbia Court of Appeals.

(Sept. 3, 1974, 88 Stat. 1054, Pub. L. 93-407, title IV, § 422; Jan. 3, 1975, 88 Stat. 2176, Pub. L. 93-635, § 6(e); Feb. 28, 1978, D.C. Law 2-45, § 5, 24 DCR 3614; June 22, 1983, D.C. Law 5-14, § 603, 30 DCR 2632; Sept. 9, 1989, D.C. Law 8-20, § 3, 36 DCR 4564; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 502(o), 48 DCR 334; Oct. 26, 2001, D.C. Law 14-42, § 10(c), 48 DCR 7612; Oct. 19, 2002, D.C. Law 14-213, § 33(f), 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 26(c)(2), 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 73(b)(2), 52 DCR 2638; Sept. 24, 2010, D.C. Law 18-223, § 7182, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-363, § 3(g)(4), 58 DCR 963; Sept. 26, 2012, D.C. Law 19-171, § 136(a), 59 DCR 6190.)

Section references. — This section is referenced in § 47-825.01, § 47-825.01a, and § 47-825.03.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (f).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-824. Residential real property subject to certain affordability and resale restrictions — Notice to taxpayer; contents.

(a) Except as provided in subsection (b) of this section, beginning as soon as possible after January 1, but no later than March 1, each owner of real property shall be notified of the assessment of his or her property for the next real property tax year. The notice, or the statement accompanying the notice, shall include:

(1) The address, lot, square, use, and class of the real property;

(2) The assessed value of the land and improvements (shown separately and in total) of the property for the next real property tax year and such amounts for the current real property tax year;

(3) The amount and percentage of change in assessed value for the next real property tax year over the current real property tax year;

(4) An indication of the reason for such change in assessment;

(5) A statement of appeal procedures pursuant to § 47-825.01(f) [(f) repealed];

(6) The citation to the regulations or orders under which the property was assessed;

(7) The location of the assessment roll and sale ratio studies referred to in §§ 47-823 and 47-825.01(h) [repealed] and the hours during which the information is available; and

(8) An explanation of all special benefits, incentives, limitations, or credits which relate to real property taxes as a result of this or any other act. Included in said explanation shall be an easily understood description of the Property Tax Deferral Program, the property tax credit, the homestead deduction, and the incentives for the preservation of historic properties. Each description shall include, but not be limited to, application procedures and

qualifying requirements. The title of each property tax relief program shall be capitalized, underlined, and printed in bold type.

(b)(1) Beginning with real property assessments for Tax Year 1999 and for each real property tax year thereafter, each owner of real property shall be notified of a proposed change in the assessed value of the owner's real property on or before March 1.

(2) A written notice of the proposed assessment shall be required if any of the following occurs:

(A) The assessed value of the real property increases or decreases;

(B) The classification of the real property changes;

(C) An initial assessed value is established; or

(D) A revaluation or reclassification is made.

(3) The notice required pursuant to this subsection shall include the following information:

(A) The address, lot, square, and the classification of the real property;

(B) The current assessed value of the real property;

(C) The proposed assessed value;

(D) Except when revalued under § 47-820(b-2), the phased-in assessed value if the proposed assessed value is higher than the prior tax year's assessed value;

(E) Repealed;

(F) A statement explaining the right of appeal procedures pursuant to § 47-825.01(f-1);

(G) Repealed;

(H) Repealed;

(I) Unless published on the Internet or made available in writing to anyone who requests it from the Office of Tax and Revenue, an explanation of all special benefits, incentives, or deductions which relate to real property taxes; and

(J) For properties receiving the homestead deduction:

(i) The current tax year's taxable assessment (determined by taking into account the owner-occupant residential tax credit under § 47-864); and

(ii) The estimate of the proposed taxable assessment for the tax year (determined by taking into account an estimate of the owner-occupant residential tax credit under § 47-864 by using the amount of the current tax year's homestead deduction in lieu of the amount of the proposed tax year's homestead deduction).

(4) Notwithstanding any other law, the Mayor may notify an owner of real property of a proposed change in the assessed value of the owner's real property before May 2 if a delay occurs for cause, as determined by the Mayor. If a delay for cause occurs, the Mayor shall notify the owner of the delay within a reasonable period of time from discovery of the cause. If a delayed notice of proposed change in the assessed value is issued under this paragraph, a petition for administrative review in accordance with § 47-825.01(f-1)(1) may be filed within 30 days after the date the delayed notice is mailed in lieu of April 2.

(c) In addition to the information required in subsections (a) and (b) of this section, beginning with real property assessments for tax year 2013 and for

each real property tax year thereafter, each owner of real property with a historic landmark designation and each owner of real property located within a historic district shall be provided, in accordance with [§ 6-1109.04], information on the current law and regulation relating to historic property improvements, including regarding:

(1) Building permits;

(2) Consultation with Advisory Neighborhood Commissions;

(3) Review by the Commission of Fine Arts; and

(4) Any other information that the Mayor determines would be helpful to owners of historic properties.

(Sept. 3, 1974, 88 Stat. 1055, Pub. L. 93-407, title IV, § 425; Oct. 13, 1978, D.C. Law 2-119, § 2, 25 DCR 1514; Sept. 20, 1990, D.C. Law 8-160, § 2(d), 37 DCR 4653; Mar. 17, 1993, D.C. Law 9-241, § 2(c), 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 5(e), 41 DCR 2050; May 16, 1995, D.C. Law 10-255, § 41, 41 DCR 5193; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 23, 1997, D.C. Law 12-40, § 101(d), 44 DCR 4859; Apr. 20, 1999, D.C. Law 12-264, § 52(m), 46 DCR 2118; June 9, 2001, D.C. Law 13-305, § 502(q), 48 DCR 334; Oct. 3, 2001, D.C. Law 14-28, § 2002(e), 48 DCR 6981; Sept. 19, 2006, D.C. Law 16-159, § 2(a), 53 DCR 5385; Apr. 27, 2012, D.C. Law 19-123, § 3, 59 DCR 1707; July 13, 2012, D.C. Law 19-155, § 3(c), 59 DCR 5590; Sept. 20, 2012, D.C. Law 19-168, § 7072(a)(2), 59 DCR 8025.)

Section references. — This section is referenced in § 47-813, § 47-825.01, and § 47-825.01a.

Effect of amendments.

D.C. Law 19-155 rewrote subsec. (b)(3)(F); and, in subsec. (b)(4), substituted "47-825.01a(d)(1)" for "§ 47-825.01(f-1) (1)". Prior to amendment, subsec. (b)(3)(F) read as follows: "(F) A statement explaining the right of appeal procedures pursuant to § 47 825.01(f 1);"

The 2012 amendment by D.C. Law 19-168 substituted "current tax year's" for "prior year's" in (b)(3)(J)(i); and in (b)(3)(J)(ii), added "The estimate of," "for the tax year," "an estimate of," and "by using the amount of the current tax year's homestead deduction in lieu of the amount of the proposed tax year's homestead deduction."

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

Legislative history of Law 19-168. — See note to § 47-802.

§ 47-825.01. Board of Real Property Assessments and Appeals.

(A) The Board shall be composed of 18 members, all of whom shall be residents of the District of Columbia ("District"). Board members shall be active members of the District of Columbia Bar with real estate experience, District certified general real estate appraisers, District licensed residential real estate appraisers, certified public accountants, mortgage bankers, licensed District real estate brokers, or persons possessing significant real property experience.

(B) The Mayor shall appoint the members of the Board with the advice and consent of the Council. From time to time, the Mayor shall appoint, with the advice and consent of the Council, the chairperson of the Board from among the members meeting the qualifications of subparagraph (A) of this

paragraph. The member shall serve as chairperson for a term of 3 years or until the end of the member's term, whichever occurs first.

(C) Board members shall be persons who have knowledge of the valuation of property, real estate transactions, building costs, accounting, finance, or statistics.

(D) None of the Board members may be officers of the District government. For the purposes of this subparagraph, officers means the Mayor and the members of the Council.

(E) Repealed.

(2)(A) A Board member shall be prohibited from representing any client or business interest before the Board for a period of 2 years after the Board member's termination or resignation from the Board.

(B) A Board member shall be prohibited from reviewing an appeal involving real property with which the Board member has had any financial dealings in the 2-year period prior to the date of the appeal. For the purposes of this subsection, the term "financial dealings" shall include, but not be limited to, the assessment, appraisal, purchase, sale, or rental of the real property in question.

(C) In addition to any other penalty under any other law, any violation of this paragraph shall be a misdemeanor, shall be prosecuted by the Office of the Attorney General for the District of Columbia, and shall be punishable by a fine up to $5,000 for each occurrence.

(3)(A) The term of each Board member shall be 3 years, except as provided in subparagraph (B) of this paragraph.

(B) For the initial 18 appointments or reappointments to Board members for full terms after [September 19, 2006]:

(i) The first 6 Board members appointed to the Board shall be appointed for a term ending April 30, 2011.

(ii) The next 6 Board members appointed to the Board shall be appointed for a term ending April 30, 2012.

(iii) The final 6 Board members appointed to the Board shall be appointed for a term ending April 30, 2013.

(4)(A) A vacancy on the Board shall be filled in the same manner that the original appointment was made.

(B) Any person appointed to fill a vacancy shall be appointed to serve for the remainder of the term during which the vacancy arose.

(C) Repealed.

(5) Board members shall receive compensation at the rate of $50 per hour.

(b) The Mayor shall provide such other support as is needed for the efficient operation of the Board.

(c)(1) The Board shall convene as necessary from the first Monday in January until the Mayor is presented with the assessment roll for the tax year as provided in subsection (h) of this section. The Board shall also convene as necessary after any special assessment that shall be generally applicable to a class of real property and for other business of the Board.

(2) Except as provided in subsection (d) of this section, a majority of the Board shall constitute a quorum for transacting business.

(3) Pursuant to subchapter I of Chapter 5 of Title 2, the Board shall issue rules of organization and procedure. All applicable provisions of subchapter I of Chapter 5 of Title 2 shall apply to the rules and procedures of the Board.

(4) The Board shall meet at least 4 times annually for administrative matters. All administrative meetings of the Board shall be open to the public. The Board shall publish notification of the meetings in the District of Columbia Register and shall make copies of minutes of those meetings available to the public.

(d)(1)(A) Each appeal to the Board shall be reviewed by a 3-member panel of the Board, unless the appellant agrees to a 2-member panel.

(B) A stipulation signed by the Mayor and the owner that resolves a matter may be approved by the signature of one member.

(2) No 3 Board members shall serve exclusively together on the same panel for more than 1 tax year.

(3) No Board member may review an appeal for which that member has a direct or indirect interest.

(4) Each decision of the Board concerning an appeal shall be in writing and shall contain a detailed statement of the basis for the decision. Each decision shall be signed by each Board member who participated in the hearing and deliberations and shall indicate whether a participating Board member agreed with or dissented from the decision of the panel.

(5) All meetings of the Board, including hearings of individual appeals of Class 3 Property assessments, shall be open to the public, and the public shall not be excluded in any way from hearings on these individual appeals. All information presented at Board meetings, including individual appeals of Class 3 Property assessments, shall be available for public inspection.

(e) The Board chairman has the authority to bring before the Board any assessments that the Board chairman believes may have been incorrectly assessed. In addition, any taxpayer may, on behalf of the general public of the District, appeal to the Board the assessment of any real property, except Class 1 Property, or may intervene in any appeal brought by the owner of Class 2 Property or Class 3 Property.

(f) Repealed.

(f-1) Beginning with real property assessments for Tax Year 1999 and for each tax year thereafter:

(1)(A) On or before April 1 of the immediately preceding tax year, an owner may petition for an administrative review of the real property's assessed value or its classification that shall be in effect for the tax year at issue.

(B) If the real property is transferred to a new owner between January 1 through March 1 of the immediately preceding tax year for which the proposed assessed value or classification shall be in effect, the new owner may petition for an administrative review before April 2 of the immediately preceding tax year.

(C) If a real property is transferred to a new owner after March 1st of the immediately preceding tax year for which the proposed assessed value or classification shall be in effect, and no other petition or appeal has been filed for the real property, the new owner may before:

(i) The 61st day after the date of transfer of the real property, file a petition for an administrative review; provided, that a petition may not be filed after July 1 of the immediately preceding tax year;

(ii) October 1 of the tax year, file an appeal with the Board if the 60th day after the date of transfer of the real property occurs after July 1 of the immediately preceding tax year and no petition for an administrative review was filed by such July 1;

(iii) April 2 of the tax year, file a petition for an administrative review if the 61st day after the date of transfer of the real property occurs after September 30 of the immediately preceding tax year and no appeal to the Board was filed by such September 30; or

(iv) October 16 of the next succeeding tax year, file an appeal with the Board if the 60th day after the date of transfer of the real property occurs after April 1 of the tax year and no petition for an administrative review was filed by such April 1.

(D) The Mayor shall have authority to change a proposed assessed value or classification in accordance with a final determination made on a petition for administrative review.

(E) A final determination or Board decision shall pertain to the value or classification of the real property for the tax year at issue.

(F) A petition for an administrative review under this paragraph shall be filed on a form and in the manner prescribed by the Mayor.

(1A) An owner or new owner of real property revalued under § 47-820(b-2) may petition for an administrative review of, and appeal to the Board, the real property's proposed assessed value or classification that shall be in effect for the tax year at issue in the same manner and to the same extent as an owner or new owner under paragraph (1) of this subsection. The petition or appeal filed under authority of this paragraph shall be deemed to have been filed under paragraph (1) of this subsection.

(2)(A) If an owner is aggrieved by a notice of final determination on a petition for administrative review, the owner may file an appeal from the proposed assessed value or classification with the Board within 45 days from the date of the notice of final determination. All notices of final determination shall be accompanied by the assessor's worksheets indicating the rationale for the determination, if the assessment is raised or lowered. If a notice of final determination on a petition for an administrative review brought under paragraph (1)(A) or (1)(B) of this subsection and the assessor's worksheets relating thereto, if required, are not sent to the owner before August 2, the owner may appeal the proposed assessed value or classification to the Board before October 1; provided, that if a delayed notice is issued under § 47-824(b)(4), September 2 and October 16 shall be substituted for August 2 and October 1, respectively.

(B) An owner may supplement the original filing if new information has become available that was not available prior to the filing deadline by delivering a copy of the supplemental filing to the Board and the Mayor no later than 15 business days after the filing of the appeal.

(2A) If an owner is aggrieved by a notice of final determination issued pursuant to § 42-3131.15 or a notice of final determination issued under

§ 47-813(d-1)(3A), the owner may file an appeal on the determination of vacancy with the Board within 45 days from the date of such notice. The Board shall render a decision on the appeal within 120 days of filing.

(3) Unless otherwise provided in this section, a good faith petition for an administrative review shall be a prerequisite for filing an appeal from a proposed assessed value or classification with the Board and a petition to the Mayor for reconsideration of the designation of their building as vacant shall be a prerequisite for filing an appeal with the Board pursuant to § 42-3131.15.

(4) An appeal shall be filed on a form prescribed by the Board. The form shall state clearly that all information and evidence in support of the appeal must be filed with the appeal form and that the owner is entitled to obtain, pursuant to paragraph (6) of this subsection, any response to the appeal filed by the Mayor. All information in support of the petition shall be submitted at the time the appeal is filed except that the petitioner shall have the right to rebut any evidence submitted by the Mayor in response to the appeal and the Board may request additional information it deems necessary.

(5) The Board shall have the authority to establish the assessed value of residential real property without a hearing when the Mayor and the real property owner agree upon the assessed value of the residential real property.

(6)(A) At least 20 business days prior to the hearing, the Board shall provide the Mayor with a copy of the appeal and the date that the hearing is scheduled.

(B)(i) At least 5 business days prior to the scheduled hearing, the Mayor shall provide a copy of its response to the owner's appeal to the Board.

(ii) The Mayor shall make any response filed with the Board available to the real property owner for inspection and copying at least 5 business days prior to the scheduled hearing. Any charges for copying by the Mayor shall be at cost.

(iii) For cases involving single family residences and condominiums, at least 7 business days prior to the scheduled hearing, the Mayor shall mail a copy of the response that was filed with the Board to the owner.

(iv) Any evidence not submitted in accordance with this subparagraph shall be excluded by the Board at hearing, unless the response is a direct rebuttal to a contention raised by the owner which was not in the appeal filed by the owner.

(7) Every decision filed by the Board shall be maintained by the Board for 3 years and shall be made available for examination and photocopying by any requestor. All costs associated with photocopying shall be paid for by the requestor. Nothing in this subsection shall affect the confidentiality of information as provided in § 47-821(d)(2).

(8) The Board shall notify the Mayor of any decision on an appeal from a proposed assessed value, classification, or determination of vacancy at the same time the Board notifies the owner.

(f-2) Repealed.

(g)(1) Pursuant to applicable provisions of law or rules adopted by the Council, or orders of the Mayor, the Board shall attempt to assure that all real property is assessed at the estimated market value.

(2) The Board shall raise or lower the estimated market value of any real property that it finds to be more than 5% above or below the estimated market value for any assessment appealed by an owner.

(h) Repealed.

(h-1)(1) The Mayor may make an administrative or clerical correction to an assessment only for the current or immediately succeeding tax year; provided, that:

(A) The Mayor may make an administrative or clerical correction to an assessment only for the current or immediately succeeding tax year; provided, that:

(B) The owner may petition and appeal in the same manner and to the same extent as a new owner under subsection (f-1)(1) of this section and the date of the correction shall be deemed to be the date of transfer thereunder.

(2) Notwithstanding § 47-820(a-1), the Mayor may change an assessment or real property classification which is the result of a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or preceding 3 tax years.

(i) The Board shall not order an increase of the assessed value of any parcel of real property above its estimated market value or a decrease of the assessed value of any parcel of real property below its estimated market value solely on the basis of average ratio studies comparing sales and assessments, unless the studies are the primary basis for the assessment or reassessment of the concerned property in question.

(j) Repealed.

(j-1) Except as provided in § 47-830, an owner aggrieved by a proposed assessed value or classification may appeal the proposed assessed value or classification to the Superior Court of the District of Columbia in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304 before October 1 of the next succeeding tax year; provided, that (1) the owner shall have first appealed in good faith the assessed value or classification to the Board immediately preceding the appeal to the Superior Court; and (2) a new owner, who filed a petition or appeal under subsection (f-1)(1)(C)(iii) or (iv) of this section, respectively, may, before October 1 of the next 2 succeeding tax years, appeal the proposed assessed value or classification in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(j-2) If an owner's second-half installment payment is placed on extended billing under § 47-811(b) to a date after September 15, the owner shall have 15 days from the payment due date to appeal to the Superior Court of the District of Columbia the proposed assessed value or classification in the same manner, to the same extent, and subject to the same limitations and requirements (except the filing deadline as provided in this subsection) as provided in subsection (j-1) of this section.

(k) Repealed.

(k-1) Notwithstanding the definition of owner and taxpayer in § 47-802(5) to include persons other than the owner of record of real property, the owner of record of real property shall retain the right to appeal an assessment under this section.

(l)(1) By October 1st, following the end of each tax year, the Board shall present to the Council and to the Mayor an annual report on its operations for the preceding tax year. The report shall include, but not be limited to, the following:

(A) The total number of appeals heard and decided by the Board;

(B) A breakdown of appeals decided by class of property as those classes are defined in § 47-813, stating the following for each class:

(i) The total number of assessments sustained;

(ii) The total number of assessments increased;

(iii) The total number of assessments decreased;

(iv) The percentage of the increased, decreased, and sustained assessments;

(v) The gain and loss in assessed value;

(vi) The total revenue gain to the District as a result of the increases by the tax year;

(vii) The total revenue loss to the District as a result of decreases by the tax year; and

(viii) The total net revenue impact on the District as a result of the Board's decisions;

(C) An analysis of the Board's operations for the year, including the identification of any problems and recommendations for dealing with the problems; and

(D) A listing, for each Board member, of the total number of appeals heard and decided, the number of hours worked, and the total amount of compensation paid.

(2) The District of Columbia Auditor shall perform a management audit of the activities of the Board at least once every 3 fiscal years (or sooner as considered appropriate by the Auditor) or upon request of a Councilmember, and report the findings to the Council.

(3) The Board shall establish a program during which all new Board members receive training in the various aspects of property valuation for all classes of property, as well as orientation on Board rules and regulations.

(m)(1) By February 1 of each year, all pending real property assessment appeals cases filed in the prior calendar year shall be finalized by the Board.

(2) After the completion of the hearing, the Board shall have 30 days to finalize a residential real property case and 80 days to finalize a commercial case real property case.

(Sept. 3, 1974, Pub. L. 93-407, title IV, § 426a, as added Mar. 17, 1993, D.C. Law 9-241, § 2(e), 40 DCR 629; Sept. 30, 1993, D.C. Law 10-25, § 103, 40 DCR 5489; Mar. 23, 1994, D.C. Law 10-98, § 2, 41 DCR 531; June 14, 1994, D.C. Law 10-127, § 5(f), 41 DCR 2050; May 16, 1995, D.C. Law 10-255,§ 42, 41 DCR 5193; Mar. 29, 1996, D.C. Law 11-109, § 2, 43 DCR 526; Apr. 18, 1996, D.C. Law 11-110, § 53, 43 DCR 530; Apr. 9, 1997, D.C. Law 11-194, § 2, 43 DCR 4557; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575 1575; May 22, 1997, D.C. Law 11-269, §§ 2(a), (b), 43 DCR 6868; Oct. 23, 1997, D.C. Law 12-40, § 101(e), 44 DCR 4859; Mar. 7, 2000, D.C. Law 13-55, § 2, 46 DCR

8868; Oct. 19, 2000, D.C. Law 13-172, § 2405, 47 DCR 6308; June 9, 2001, D.C. Law 13-305, § 502(r), 48 DCR 334; June 19, 2001, D.C. Law 13-313, § 16(a), 48 DCR 1873; Oct. 3, 2001, D.C. Law 14-28,§ 2002(f), 48 DCR 6981; Oct. 26, 2001, D.C. Law 14-42, § 10(d), 48 DCR 7612; Apr. 4, 2003, D.C. Law 14-282, § 11(h), 50 DCR 896; June 5, 2003, D.C. Law 14-307, § 1303(c), 49 DCR 11664; Mar. 13, 2004, D.C. Law 15-105, § 26(c)(3), 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 1162(a), 51 DCR 8441; Apr. 13, 2005, D.C. Law 15-354, § 73(b)(3), 52 DCR 2638; Sept. 19, 2006, D.C. Law 16-159, § 2(b), 53 DCR 5385; Aug. 15, 2008, D.C. Law 17-216,§ 4(c), 55 DCR 7500; Aug. 16, 2008, D.C. Law 17-219, § 7015, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 121, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 114(a), 59 DCR 6190.)

Section references. — This section is referenced in § 47-811.02, § 47-820, § 47-824, § 47-825.01a, § 47-825.02, § 47-825.03, § 47-831, § 47-845.01, § 47-893, and § 47-1005.01.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "pursuant to § 42-3131.15" for "pursuant to § 42.3131.15" in (f-1)(3).

Legislative history of Law 19-171. — See note to § 47-821.

Editor's notes.

Section 4 of D.C. Law 19-155 added a section to D.C. Law 18-363 to read as follows:

"Sec. 3a. Applicability; transition.

"(a) Sections 2 and 3 shall apply upon Council approval and appointment by the Mayor of a full-time Chairperson and a full-time Vice Chairperson to the Real Property Tax Appeals Commission for the District of Columbia.

"(b) Notwithstanding subsection (a) of this section, the Mayor shall appoint the members of the Real Property Tax Appeals Commission for the District of Columbia with the advice and consent of the Council in accordance with the provisions of section 2(b)(3))."

Application of Law 11-269: Section 3a of D.C. Law 11-269, as added by § 3 of D.C. Law 12-122, provided that the provisions of the act shall apply to appeals from real property assessments for real property tax year 2000 and for each real property tax year thereafter.

Application of Law 14-307: Section 1304 of D.C. Law 14-307 provided: "Sections 1302 and 1303 shall apply as of October 1, 2002."

Mayor authorized to issue rules: Section 7 of D.C. Law 9-241 provided that the Mayor shall issue rules necessary to implement the provisions of the act pursuant to subchapter I of Chapter 5 of Title 2.

Expiration of title I of D.C. Law 12-40: Section 105(b) of D.C. Law 12-40 provided that title I of that act shall expire 4 years from its effective date. D.C. Law 12-40 became effective on October 23, 1997.

Application of §§ 101(e)(3), 101(e)(5), and 101(e)(7) of D.C. Law 12-40: Section 102 of D.C. Law 12-40, as amended by § 54 of D.C. Law 12-264, provided that §§ 101(e)(3), 101(e)(5), and 101(e)(7) shall apply as of Sept. 30, 1998. Sections 101(e)(3), 101(e)(5), and 101(e)(7) repealed (h), (j), and (k), respectively.

Mayor authorized to issue rules: Section 104 of D.C. Law 12-40 provided that the Mayor may promulgate rules necessary for the implementation of this title.

Audit of triennial assessment process: Section 103 of D.C. Law 12-40 provided that at the end of the first triennial assessment cycle, an audit of the assessment process shall be conducted by an outside firm, under the auspices of the International Association of Assessing Officers, for the purposes of examining the methodology, procedures, and accuracy of real property assessments under the triennial assessment process. The results of the audit shall be provided to the Council of the District of Columbia.

Review of title I provisions after 3 years: Section 105(a) of title I of D.C. Law 12-40 provided that after 3 years, the Committee on Finance and Revenue shall review the provisions of this title and make recommendations for their continuance, amendment, or termination.

Expiration and review of title I of D.C. Law 12-40: Section 2003 of D.C. Law 14-28 repealed the expiration provision of section 105(b) and the review provision of section 105(a) of D.C. Law 12-40.

§ 47-825.01a. Real Property Tax Appeals Commission.

(a)(1)(A) There is established the Real Property Tax Appeals Commission for the District of Columbia ("Commission") to review real property assessments and classifications and to hear other appeals. The Commission shall

have jurisdiction over any appeal timely filed with the Board of Real Property Assessments and Appeals in accordance with the provisions of § 47-825.01(f-1).

(B) The Commission shall be comprised of

(i) A full-time Chairperson;

(ii) A full-time Vice Chairperson;

(iii) Four full-time Commissioners; and

(iv) Six part-time Commissioners,

(C) The part-time members of the Commission shall be compensated on an hourly basis and shall hear cases of single-family residential property or any noncommercial real property assessed during the administrative review at $3 million or less (or under the notice of assessment if the administrative review is unavailable); provided, that the Chairperson may assign part-time members to hear cases of other real property assessments.

(D)(i) The Chairperson of the Commission shall be a District of Columbia certified general appraiser with at least 5 years of professional experience.

(ii) The Vice-Chairperson of the Commission shall be an active member of the District of Columbia Bar with at least 5 years of real estate professional experience.

(iii) Full-time Commissioners shall have at least 5 years of professional commercial real estate experience.

(iv) All Commissioners shall be active members of the District of Columbia Bar, District certified general real estate appraisers, certified public accountants, mortgage bankers, licensed District real estate brokers, or persons possessing significant real property experience.

(E) The Commissioners shall not be elected officers of the District government.

(F)(i) The Mayor of the District of Columbia ("Mayor") shall appoint the members of the Commission with the advice and consent of the Council.

(ii) The Mayor shall transmit to the Council, for a 90-day period of review, excluding days of Council recess, nominations to the Commission. If the Council does not approve, by resolution, within the 90-day period a nomination to the Commission, the nomination shall be deemed disapproved.

(G) The Mayor shall not remove a Commissioner except for cause. A Commissioner's unexcused failure to meet annual performance measures in any 2 years within a 3-year period shall be among the grounds constituting cause for removal.

(H)(i) At least 6 months before the expiration of any term, a Commissioner seeking reappointment to a new term shall file a statement with the Mayor and the Chairperson, or the Vice-Chairperson in the case of the Chairperson seeking reappointment, specifying that he or she requests reappointment to a new term ("reappointment statement").

(ii) For a Commissioner who timely files a reappointment statement, the Chairperson shall prepare a record of the Commissioner's tenure with regard to the Commissioner's competency and quality of performance over the period of his or her term of service ("performance record"). The Vice-Chairperson shall prepare the performance record of the Chairperson when he or she is

seeking reappointment and has timely filed a reappointment statement in accordance with sub-subparagraph (i) of this subparagraph.

(iii) At a minimum, the performance record shall contain, for the immediate prior term:

(I) All the decisions authored by the Commissioner or to which he or she was a signatory;

(II) Data on how the Commissioner met applicable objective performance measures;

(III) The recommendation of the Chairperson or Vice-Chairperson, whichever is applicable, as to whether the reappointment should be made; and

(IV) Any other information requested by the Mayor.

(iv) The Chairperson or the Vice-Chairperson, whichever is applicable, shall submit the performance record to the Mayor within 60 days of the filing of the reappointment statement.

(v) The Mayor shall consider all information received with regard to reappointment.

(2)(A) A Commissioner shall be prohibited from representing any client or business interest before the Commission for a period of 2 years after the Commissioner's termination or resignation from the Commission.

(B) A Commissioner shall be prohibited from reviewing an appeal involving real property with which the Commissioner has had any financial dealings in the 2-year period prior to the filing date of the appeal. For the purposes of this subsection, the term "financial dealings" shall include the assessment, appraisal, purchase, sale, or rental of the real property in question.

(C) A Commissioner shall not review an appeal for which that Commissioner has a direct or indirect interest.

(3)(A) The term of each Commissioner shall be 4 years, except as provided in subparagraph (B) of this paragraph.

(B) For the initial 12 appointments or reappointments to Commissioners for full terms beginning October 1, 2011:

(i) The first 3 non-leadership Commissioners appointed to the Commission shall be appointed for a term ending April 30, 2013.

(ii) The next 3 non-leadership Commissioners appointed to the Commission shall be appointed for a term ending April 30, 2014.

(iii) The next 2 non-leadership Commissioners and the Vice-Chairperson appointed to the Commission shall be appointed for a term ending April 30, 2015.

(iv) The final 2 non-leadership Commissioners and the Chairperson appointed to the Commission shall be appointed for a term ending April 30, 2018.

(4)(A) A vacancy on the Commission shall be filled in the same manner that the original appointment was made.

(B) Any person appointed to fill a vacancy shall be appointed to serve for the remainder of the term during which the vacancy arose.

(5) Commissioners shall be employees of the District government. The Mayor shall establish a separate salary schedule applicable to Commissioners.

(6) The Commission shall employ staff, including a general counsel, to provide legal advice and such other support as is needed for the efficient operation of the Commission.

(7) The Commission shall establish a program during which all new Commission members receive training in the various aspects of property valuation for all classes of property, and orientation on Commission rules and regulations.

(b)(1) Except as provided in subsection (c) of this section, a majority of the Commission shall constitute a quorum for transacting business.

(2) Pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], the Commission shall issue rules of organization and procedure which shall be consistent with all applicable provisions of subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.].

(3) The Commission shall meet at least 4 times annually for administrative matters. All administrative meetings of the Commission shall be open to the public. The Commission shall publish notification of the meetings in the District of Columbia Register and shall make copies of minutes of the meetings available to the public.

(c)(1)(A) Each appeal to the Commission shall be reviewed by a panel of the Commission. The number of Commissioners on a panel shall be as follows:

(i) In the case of a single-family residential property or any noncommercial real property assessed during the administrative review at $3 million or less (or under the notice of assessment if the administrative review is unavailable), a one-Commissioner panel shall be convened; provided, that a panel described in sub-subparagraph (ii) of this subparagraph shall be convened at the direction of the Chairperson or if both the appellant and the Office of Tax and Revenue ("OTR") request a multi-Commissioner panel.

(ii) In the case of all other real property, a 3-Commissioner panel shall be convened; provided, that a 2-Commissioner panel may be convened if the appellant and OTR agree.

(B) A stipulation signed by OTR and the owner that resolves a matter may be approved by the signature of one Commissioner.

(2) No 3 Commissioners shall serve exclusively together on the same panel for more than one tax year.

(3) Each decision of the Commission shall be in writing and shall contain a detailed statement of the basis for the decision. Each decision shall be signed by the deciding Commissioner. In the case of an appeal heard by a multi-Commissioner panel, each Commissioner who participated in the hearing and deliberations shall sign the opinion and indicate whether he or she agreed with or dissented from, the decision of the panel.

(4) The Commission shall publish on the Internet with respect to each decision of the Commission:

(A) The assessment and classification resulting from the administrative review;

(B) The assessment and classification determined by the Commission; and

(C) The names of the Commissioners of the Commission who were on the panel that established the assessment or classification, or both, indicating

whether the participating Commissioner agreed with, or dissented from, the decision of the panel.

(5) Every decision filed by the Commission shall be maintained by the Commission for 3 years and shall be made available for examination and photocopying by any requestor. All costs associated with photocopying shall be paid for by the requestor. This subsection shall not affect the confidentiality of valuation records as provided in § 47-821(d)(2), tax returns, and information that is personal in nature.

(6) All meetings of the Commission, including hearings of individual appeals, shall be open to the public. All information presented at Commission meetings, including individual appeals, shall be available for public inspection. Notwithstanding the foregoing, valuation records protected under § 47-821(d), tax returns, and information that is personal in nature shall not be available for public inspection and discussion of same during a hearing shall be *in camera*.

(7) By appealing to the Commission, a real property owner consents to OTR disclosing during the course of the owner's appeal any tax information that the owner has provided to OTR under this title or included on the owner's Real Property Recordation and Transfer Tax Form filed with OTR pursuant to Chapter 11 of Title 22.

(8) Any appraisal submitted to the Commission by the owner or OTR shall be subject to full disclosure to the Commission, the owner, and OTR. Information provided under this subparagraph shall be subject to the nondisclosure of valuation records provided in § 47-821(d)(2).

(d) A petition to the Office of Tax and Revenue for an administrative review shall proceed as follows:

(1) On or before April 1 of the immediately preceding tax year, an owner may petition OTR for an administrative review of the real property's assessed value or its classification that shall be in effect for the tax year at issue.

(2) If real property is transferred to a new owner during the tax year immediately preceding the tax year for which the proposed assessed value or classification shall be in effect, the new owner may petition OTR for an administrative review of the assessed value or classification that shall be in effect for the tax year by the later of April 1 of the immediately preceding tax year or within 45 days after the date of transfer to the new owner that occurred during the immediately preceding tax year; provided, that no other petition or appeal of the proposed assessed value or classification for the tax year shall have been filed for the real property.

(3) OTR may change a proposed assessed value or classification in accordance with a final determination made on a petition for administrative review.

(4) A final determination by OTR shall pertain to the value or classification of the real property for the tax year at issue.

(5) A petition for an administrative review under this paragraph shall:

(A) Be filed on a form and in the manner prescribed by OTR; and

(B) Contain all documents as required under this section and as prescribed by OTR.

(e) An appeal to the Commission shall proceed as follows:

(1)(A) If an owner is aggrieved by a notice of final determination on a petition for administrative review, the owner may file an appeal from the proposed assessed value or classification with the Commission within 45 days after the date of the notice of final determination. An owner may supplement the original filing if new information has become available that was not available prior to the filing deadline by delivering a copy of the supplemental filing to the Commission and OTR no later than 20 days after the filing of the appeal; provided, that a hearing shall not occur within 20 days from the date of the delivery of the supplemental filing. All notices of final determination shall be accompanied by the assessor's worksheets indicating the rationale for the determination, if the assessment is raised or lowered. If a notice of final determination on a petition for an administrative review brought under subsection (1) and (2) of this section and the assessor's worksheets relating thereto, if required, are not mailed to the owner by August 1 preceding the tax year, the owner may appeal the proposed assessed value or classification to the Commission by September 30 preceding the tax year; provided, that if a delayed notice is issued under § 47-824(b)(4), September 1 and October 15 of the tax year shall be substituted for August 1 and September 30, respectively.

(B) If an owner is aggrieved by a notice of final determination issued pursuant to § 42-3131.15 or a notice of final determination issued under § 47-813(d-1)(4A), the owner may file an appeal on the determination of vacancy with the Commission within 45 days after the date of the notice. Notwithstanding any other provision of this section, the Commission shall render a decision on the appeal within 120 days after the filing.

(2)(A) An appeal under paragraph (1)(A) of this subsection or paragraph (4)(A) of this subsection shall:

(i) Be filed on a form and in the manner prescribed by the Commission; and

(ii) Contain all documents (including OTR's final decision and response given to the appellant), as prescribed by the Commission; and

(iii) Include income and expense statements as required to be filed under § 47-821(d)(1) for the 2 preceding calendar years.

(B) All information in support of the petition shall be submitted by the appellant at the time the appeal is filed, except that the appellant shall have the right to rebut any new evidence submitted by OTR in response to the appeal (and any supplement thereto) that was not previously raised during the administrative review and the Commission may request additional information it considers necessary.

(C)(i) At least 30 days prior to the hearing or rescheduled hearing before the Commission, the Commission shall provide to OTR a copy of the appeal with all documents and attachments related thereto and the date that the hearing is scheduled.

(ii)(I) Notwithstanding any other provision in this subparagraph:

(aa) If the assessor's worksheet is mailed with the notice of final determination to the owner, the worksheet shall be deemed to be the response of OTR to the owner's appeal before the Commission, as the response may be

amended by subsequent filings as provided in this subparagraph, and the response shall not be required to be filed by OTR with the Commission before the hearing.

(bb) If the assessor's worksheet is not mailed with the notice of final determination because the proposed assessment was not changed as a result of the notice of final determination, a response from OTR shall not be required.

(cc) If OTR's response is amended, OTR shall provide a copy of its amended response to the owner's appeal to the Commission as provided in sub-subparagraphs (ii) and (iii) of this subparagraph.

(II) OTR shall make any response filed with the Commission available to the real property owner for inspection and copying at least 7 days before the scheduled hearing. Any charges for copying by OTR shall be at cost.

(III) For cases involving single-family residential property, at least 10 days prior to the scheduled hearing, OTR shall send electronically or mail a copy of the response that was filed with the Commission to the owner.

(IV) Except as provided in sub-sub-subparagraph (i) of this subparagraph, any evidence not submitted in accordance with this subparagraph shall be excluded by the Commission at hearing.

(iii) If a hearing is rescheduled, response due dates shall be readjusted as if the date of the rescheduled hearing were the date of the original hearing.

(3) The Commission or a Commissioner may compel the attendance of witnesses, administer oaths or affirmations, and examine appellants and other witnesses under oath.

(4)(A) The Commission, by decision, may change:

(i) A proposed assessed value;

(ii) A proposed classification;

(iii) A decision on homestead, senior, or disabled benefit eligibility; and

(iv) Any other determination on a matter for which jurisdiction is specifically conferred by law.

(B) A decision by the Commission shall pertain to the assessed value of, classification of, or any matter (for which jurisdiction is conferred) concerning the real property for the tax year at issue.

(C)(i) If an assessment of a real property is under appeal to the Commission, or is otherwise brought before the Commission, under this section, the Commission shall determine the estimated market value of the real property for the applicable tax year.

(ii) The Commission shall raise or lower the estimated market value of any real property that it finds to be more than 5% above or below the estimated market value for any assessment appealed by an owner.

(iii) The assessment shall be presumed correct. The owner shall demonstrate by a preponderance of the evidence that the assessment of the real property does not represent the estimated market value or that the classification of the real property is erroneous.

(iv) The Commission shall not order an increase of the assessed value of any parcel of real property above its estimated market value or a decrease

of the assessed value of any parcel of real property below its estimated market value solely on the basis of average ratio studies comparing sales and assessments, unless the studies are the primary basis for the assessment or reassessment of the concerned real property in question.

(5) The Commission shall notify OTR of any decision on an appeal from a proposed assessed value, classification, or determination of vacancy at the same time that the Commission notifies the owner.

(6)(A) OTR or an owner aggrieved by a proposed assessed value or classification may seek a rehearing before the Commission. The Commission, in its discretion, may rehear or reject a request to rehear an appeal.

(B) Within 15 days after the date on which the Commission transmits its decision, the owner or OTR, by written notice to the Chairperson, may request the rehearing. If a rehearing is granted, the other party shall have 10 days after date of mailing or electronically transmitting notice in which to prepare and file with the rehearing panel a response to the hearing.

(C) In the case of a rehearing, a 3-Commissioner panel shall be convened consisting of the Chairperson, Vice-Chairperson, and a Commissioner who was a member of the panel that heard the underlying appeal.

(D) A rehearing shall be granted as a matter of right if the decision of an appeal changes the proposed assessed value of a real property, excluding single-family residential property, by at least 20% or $10 million, whichever is less.

(E) No decision of the Commission shall be changed upon rehearing except upon a finding of plain error. The burden of proof shall be upon the moving party to demonstrate plain error.

(F) The rehearing shall not be a hearing de novo and shall be considered a continuation of the original hearing before the Commission.

(7)(A) By February 1 of each year, all pending real property appeals cases filed in the prior calendar year shall be decided by the Commission.

(B) Subject to subparagraph (A) of this paragraph, after the completion of the hearing, the Commission shall have 30 days to decide a residential real property case and 80 days to decide a commercial case real property case.

(f)(1) OTR may make an administrative or clerical correction to an assessment only for the current or immediately succeeding tax year; provided, that:

(A) The notice of correction under this paragraph shall be mailed by certified or registered mail to the owner's address of record; and

(B) Within 45 days from the date of the notice, the owner may petition for an administrative review of the notice and appeal from a final determination thereof in the same manner and to the same extent as if the petition were filed under subsection (e) of this section.

(2) Notwithstanding § 47-820(a-1), OTR may change an assessment or real property classification which is the result of a substantial error that would cause an injustice to the owner for the immediately succeeding, current, or preceding 3 tax years.

(g) Except as provided in § 47-830, an owner aggrieved by a proposed assessed value or classification may appeal the proposed assessed value or classification to the Superior Court of the District of Columbia in the same

manner and to the same extent as provided in §§ 47-3303 and 47-3304 by September 30 of the tax year; provided, that the owner shall have in good faith first appealed the assessed value or classification to the Commission immediately preceding the appeal to the Superior Court of the District of Columbia.

(h) If an owner's second-half installment payment is placed on extended billing under § 47-811(b) to a date after September 15 of the tax year, the owner shall have 15 days after the payment due date to appeal to the Superior Court of the District of Columbia the proposed assessed value or classification in the same manner, to the same extent, and subject to the same limitations and requirements as provided in subsection (g) of this section (except the filing deadline shall be as provided in this subsection).

(i) Notwithstanding the definition of owner and taxpayer in § 47-802(5) to include persons other than the owner of record of real property, the owner of record of real property shall retain the right to appeal an assessment under this section.

(j)(1) By October 1 of the next succeeding tax year, the Commission shall present to the Council and to the Mayor an annual report on its operations for the tax year. The report shall include the following:

(A) The total number of appeals heard and decided by the Commission;

(B) A breakdown of appeals decided by class of real property as those classes are defined in § 47-813, stating the following for each class:

(i) The number of assessments sustained;

(ii) The number of assessments increased;

(iii) The number of assessments decreased;

(iv) The percentage of the increased, decreased, and sustained assessments;

(v) The gain and loss in assessed value;

(vi) The revenue gain to the District as a result of the increases by the tax year;

(vii) The revenue loss to the District as a result of decreases by the tax year; and

(viii) The net revenue impact on the District as a result of the Commission's decisions;

(C) An analysis of the Commission's operations for the year, including the identification of any problems and recommendations for dealing with the problems; and

(D) A listing, for each Commissioner, of the total number of appeals heard and decided.

(2) The District of Columbia Auditor shall perform a management audit of the activities of the Commission at least once every 3 fiscal years (or sooner as considered appropriate by the Auditor) or upon request of a Councilmember, and report the findings to the Council.

(Apr. 8, 2011, D.C. Law 18-363, § 2(b)(3), 58 DCR 963; July 13, 2012, D.C. Law 19-155, § 2(a), 59 DCR 5590; Sept. 26, 2012, D.C. Law 19-171, § 114(k), 59 DCR 6190.)

Section references. — This section is referenced in § 47-820, § 47-835, and § 47-863.

Effect of amendments. — D.C. Law 19-155, in subsec. (a)(1)(A), inserted the following sentence: "The Commission shall have jurisdiction over any appeal timely filed with the Board of Real Property Assessments and Appeals in accordance with the provisions of § 47-825.01(f-1)."; rewrote subsec. (a)(1)(B)(iv); in subsec. (a)(1)(G), inserted the following sentence: "A Commissioner's unexcused failure to meet annual performance measures in any 2 years within a 3-year period shall be among the grounds constituting cause for removal."; added subsec. (a)(1)(H); rewrote subsec. (c)(7); in subsec. (e)(1)(A), substituted "20 days after the filing of the appeal; provided, that a hearing shall not occur within 20 days from the date of the delivery of the supplemental filing" for "10 days after the filing of the appeal"; rewrote subsec. (e)(1)(B); and, in subsec. (g), substituted "tax year; provided, that the owner shall have in good faith first appealed the assessed value or classification to the Commission immediately preceding the appeal to the Superior Court of the District of Columbia." for "tax year."

The 2012 amendment by D.C. Law 19-171 substituted "request a multi-Commissioner" for "request the a [sic] multi-Commissioner" in (c)(1)(A)(i); and validated a previously made technical correction in (g).

Emergency legislation.

For temporary addition of a salary schedule for the Real Property Tax Appeals Commission, effective as of the first full pay period beginning in fiscal year 2013, see §§ 201 and 202 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

Legislative history of Law 19-155. — Law 19-155, the "Real Property Tax Appeals Commission Establishment Act of 2012", was introduced in Council and assigned Bill No. 19-271, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-362 and transmitted to both Houses of Congress for its review. D.C. Law 19-155 became effective on July 13, 2012.

Legislative history of Law 19-171. — See note to § 47-821.

Editor's notes. — Section 4 of D.C. Law 19-155 added a section to D.C. Law 18-363 to read as follows:

"Sec. 3a. Applicability; transition.

"(a) Sections 2 and 3 shall apply upon Council approval and appointment by the Mayor of a full-time Chairperson and a full-time Vice Chairperson to the Real Property Tax Appeals Commission for the District of Columbia.

"(b) Notwithstanding subsection (a) of this section, the Mayor shall appoint the members of the Real Property Tax Appeals Commission for the District of Columbia with the advice and consent of the Council in accordance with the provisions of section 2(b)(3)).".

Section 5 of D.C. Law 19-155 provided: "Sec. 5. Applicability. This act shall apply upon Council approval and appointment by the Mayor of a full-time Chairperson and a full-time Vice Chairperson to the Real Property Tax Appeals Commission for the District of Columbia."

§ 47-830. New buildings; complaints and appeals.

(a) Any owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Real Property Tax Appeals Commission for the District of Columbia by:

(1) September 30 for a supplemental assessment conducted between January 1 and June 30; and

(2) March 31 for a supplement assessment conducted between July 1 and December 31.

(b) The Real Property Tax Appeals Commission for the District of Columbia shall hear an appeal of the supplemental assessment if the appeal is filed by the prescribed due date and shall make a final determination of the appeal no later than October 15 of the same calendar year for a supplemental assessment conducted between January 1 and June 30, and by April 15 of the next calendar year for a supplemental assessment conducted between July 1 and December 31.

(c)(1) Any owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Superior

Court of the District of Columbia within 6 months after April 15 following the year in which the assessment is made, in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304 for a supplemental assessment conducted between January 1 and June 30, if:

(A) An appeal of the supplemental assessment has been filed with the Real Property Tax Appeals Commission for the District of Columbia by September 30; or

(B) The Mayor failed to provide notice to the affected owner, as required by § 47-829(f)(2), by September 1 of the year in which the supplemental assessment was conducted; and

(2) Any owner aggrieved by any supplemental assessment, made in accordance with § 47-829, may appeal from the assessment to the Superior Court of the District of Columbia within 6 months after the April 15th following the year in which the assessment is made, in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304 for a supplemental assessment conducted between July 1 and December 31, if:

(A) An appeal of the supplemental assessment has been filed with the Real Property Tax Appeals Commission for the District of Columbia by March 31; or

(B) The Mayor failed to provide notice to the affected owner, as required by § 47-829(f)(2), by the March 1st following the year in which the supplemental assessment was conducted.

(c-1) Beginning with the real property assessments for Tax Year 1999 and for each tax year thereafter:

(1)(A) An owner may petition for an administrative review of a supplemental assessment conducted between January 1 and June 30 in accordance with § 47-829 on or before October 1 following the date of the notice of supplemental assessment.

(B) An owner may petition for an administrative review of a supplemental assessment conducted between July 1 and December 31 in accordance with § 47-829, or on or before April 1 following the date of the notice of supplemental assessment.

(C) The petition for an administrative review shall be made in writing on a form and in a manner as the Mayor may prescribe.

(2)(A) Any owner aggrieved by a final determination made on an administrative review may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia within 45 days from the date of a notice of a final determination on an administrative review. The Real Property Tax Appeals Commission for the District of Columbia shall hear an appeal of the supplemental assessment only if a request for an administrative review was timely filed with the Mayor. All notices of final determination shall be accompanied by assessor's worksheets indicating the rationale for the determination, if the assessment is raised or lowered.

(B) No administrative review shall be required before an owner may appeal to the Real Property Tax Appeals Commission for the District of Columbia a supplemental assessment conducted between January 1 and June 30 if:

(i) The Mayor fails to notify the owner of the supplemental assessment on or before September 1; or

(ii) The Mayor fails to notify the owner of a final determination on an administrative review of the supplemental assessment on or before December 30 following the date of the notice of supplemental assessment.

(C) Under the circumstance described in subparagraph (B) of this paragraph, the owner may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia on or before February 1 without first petitioning for an administrative review of the supplemental assessment.

(D) No administrative review shall be required before an owner may appeal to the Real Property Tax Appeals Commission for the District of Columbia a supplemental assessment conducted between July 1 and December 31 if:

(i) The Mayor fails to provide notice of the supplemental assessment on or before March 1; or

(ii) The Mayor fails to notify the owner of a final determination on an administrative review of the supplemental assessment on or before June 30.

(E) Under the circumstances described in subparagraph (D) of this paragraph, the owner may appeal the supplemental assessment to the Real Property Tax Appeals Commission for the District of Columbia on or before August 1 without first petitioning for an administrative review of the supplemental assessment.

(3)(A) An owner may appeal from either a supplemental assessment conducted between January 1 and June 30 or a supplemental assessment conducted between July 1 and December 31 on or before December 31st of the year following the year in which the supplemental assessment was conducted in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304. An appeal from the supplemental assessment filed with the Real Property Tax Appeals Commission for the District of Columbia shall be a prerequisite to filing an appeal with the Superior Court of the District of Columbia; provided, that written notice of the supplemental assessment was given to the taxpayer before December 2 for a supplemental assessment conducted between January 1 and June 30 and before May 31 of the following year for a supplemental assessment conducted between July 1 and December 31.

(B) Repealed.

(d) For the purposes of § 47-829 and this section, the term:

(1) "Improvement" means a building or other relatively permanent structure or development located on or attached to real property.

(2) "Construction in progress" means the on-site work done in the building or the alteration of an improvement, whether a new improvement, an addition, or a renovation, including, but not limited to, the assembly and installation of components and equipment.

(3) "Conversion" means a change in use of real property or a change in the type of ownership of residential real property that results in a change of residential use. A conversion includes, but is not limited to:

(A) A change in use from a residential, commercial, office, hotel or motel, industrial, or other type of real property to a residential, commercial, office, hotel or motel, industrial or other type of real property, regardless of whether the change in use results in a reclassification of the real property; or

(B) A change in the type of ownership of residential real property that results in a change in residential use of the real property from a rental housing accommodation, a condominium, or cooperative housing association to a rental housing accommodation, a condominium, or a cooperative housing association.

(4) For the purposes of paragraph (3) of this subsection, the term "housing accommodation" has the same meaning as that term has in § 42-3501.03(14); and the terms "condominium" and "cooperative housing association" have the same meaning as the terms have in § 47-813(d).

(e) Notwithstanding the definition of owner and taxpayer in § 47-802(5) to include persons other than the owner of record of real property, the owner of record of real property shall retain the right to appeal an assessment under this section.

(Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(c); May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 26, 1939, 53 Stat. 1109, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 545, ch. 649, § 3(c); July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); June 22, 1983, D.C. Law 5-14, § 703, 30 DCR 2632; Mar. 6, 1991, D.C. Law 8-207, § 2(b), 37 DCR 8453; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 4(a), 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 23, 1997, D.C. Law 12-40, § 101(f), 44 DCR 4859; June 9, 2001, D.C. Law 13-305, § 502(t), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 33(g), 49 DCR 8140; June 5, 2003, D.C. Law 14-307, § 1303(d), 49 DCR 11664; Apr. 13, 2005, D.C. Law 15-354, § 73(b)(4), 52 DCR 2638; Sept. 19, 2006, D.C. Law 16-159, § 2(d), 53 DCR 5385; Apr. 8, 2011, D.C. Law 18-363, § 3(g)(7), 58 DCR; Sept. 26, 2012, D.C. Law 19-171, § 136(b), 59 DCR 6190.)

Section references. — This section is referenced in § 47-820, § 47-825.01, § 47-825.01a, and § 47-829.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-363 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-831. Omitted properties; void assessments; notice and appeal.

(a) If the Department of Finance and Revenue shall learn that any property liable to taxation has been omitted from the assessment for any previous year or years, or has been so assessed that the assessment made was void, it shall be a duty at once to reassess this property for each and every year for which it has escaped assessment and taxation, and report the same, through the Assessor, to the Collector of Taxes who shall at once proceed to collect the taxes

so in arrears as other taxes are collected; provided, that no property which has escaped assessment and taxation shall be liable under this section for a period of more than 3 years prior to such assessment, except in the case of property involved in litigation. In addition to the duties of the Assessor hereinbefore provided, it shall be the duty of the Assessor upon reassessment as herein provided to notify the owner by writing of the fact of such reassessment. An owner aggrieved by a reassessment made under this section may petition for administrative review, and appeal from a final determination thereof, in the same manner and to the same extent as a new owner under § 47-825.01(f-1).

(b) This section shall not apply when the owner has a duty to notify the Collector of Taxes of the cessation of eligibility for a deduction, classification, exemption, or deferral.

(Aug. 17, 1937, 50 Stat. 693, ch. 690, title IX, § 5(d); May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 502(u), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(j), 50 DCR 896; Oct, 20, 2005, D.C. Law 16-33, § 1143(b), 52 DCR 7503; July 13, 2012, D.C. Law 19-155, § 2(b), 59 DCR 5590.)

Section references. — This section is referenced in § 47-811.02, § 47-1005.01, § 47-3305, § 47-4610, and § 47-4628.

Effect of amendments.

D.C. Law 19-155, in subsec. (a), substituted ", within 45 days from the date of the notice, petition for an administrative review of the reassessment and appeal from a final determination thereof, to the same extent as if the appeal were filed under 47-825.01a(d)(2)" for "petition for administrative review, and appeal from a final determination thereof, in the same manner and to the same extent as a new owner under § 47-825.01(f-1)".

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

§ 47-850.02. Residential property tax relief — One-time filing, notification of change in eligibility, liability for tax, audit.

(a) The application form filed by the individual, shareholder, or member shall apply to the initial tax year, or applicable installment, and to any succeeding tax year thereafter for which the deduction is allowed.

(b)(1) If a real property no longer qualifies as a homestead, the applicant (or current owner if there is no applicant) shall notify the Mayor of the date of the change in eligibility within 30 days after the change in eligibility. If the applicant (or current owner if there is no applicant) fails to notify timely, the deduction shall be rescinded without limitation for each tax year. Penalty and interest shall be added from the day the correct amount of tax was due but not paid.

(2) Notwithstanding paragraph (1) of this subsection, if the real property is transferred and continued to qualify as a homestead 30 days or less before the date of execution of the deed of transfer, the applicant shall not be required to notify the Mayor of the change in eligibility.

(3) If the tax is paid within 30 days of the corresponding bill, timely

notification of the change in eligibility shall preclude assessment of penalty and interest.

(4) If the change in eligibility occurs during the period October 1 through March 31 of the tax year, the real property shall not be entitled to any deduction during the tax year.

(5) Notwithstanding §§ 47-850(a) and 47-850.01(a), if the change in eligibility occurs during the period April 1 through September 30, the real property shall be entitled to ½ of the deduction, which shall be applied to the first installment only.

(6)(A) Notwithstanding the rescission of the deduction pursuant to paragraphs (4) and (5) of this subsection, if all of the applicant's ownership interest in the real property is transferred to a new owner, shareholder, or member who does not apply or qualify for the deduction, the real property shall be entitled to the apportioned amount of the deduction applicable to the installment payable during the half tax year during which the ownership interest was transferred. At the end of such half tax year, the deduction shall cease.

(B) If the applicant purchases another real property or interest in a housing cooperative for which he or she shall make application for the deduction, and the application and purchase occurs during the same half tax year when the transfer occurred, §§ 47-850(d), 47-850.01(b), and 47-850.04 shall not apply to the extent that both real properties may benefit from the deduction during that half tax year and, thereafter, only the newly purchased real property or housing cooperative in which the applicant acquired newly an interest shall benefit from the applicant's deduction.

(C) Notwithstanding the foregoing, a real property shall not benefit from more than one deduction in any half tax year; provided, that in the case of a housing cooperative, the real property shall not benefit from more than one deduction related to a dwelling unit in any half tax year.

(b-1) A denial of the deduction shall be subject to the provisions of § 47-813(d-1)(3A) to the same extent as an appeal of a Class 3 classification.

(c) If real property tax is owing as a result of an erroneous or improper deduction, the following shall apply:

(1) Except in the case of cooperative housing associations, if the real property was transferred, the applicant or former owner, and not the real property shall be personally liable for the amount of the delinquent real property tax which was not paid timely during the period when the applicant or former owner had an ownership interest in the homestead, together with interest and penalty at the same rate as provided in this chapter for the late payment of real property tax. The tax shall be considered due on the date that the total amount of real property tax was due but unpaid and shall be collected in the manner prescribed under Chapter 44.

(2) Notwithstanding paragraph (1) of this subsection, if the homestead was transferred and the grantee failed to record timely a deed under § 47-1431 (or other evidence of the transfer in the case of a cooperative housing association), the real property shall be liable for the amount of the delinquent real property tax which was not timely paid, together with interest and penalty as provided in this chapter for the late payment of real property tax.

(3) In all other cases, the real property shall be liable for the amount of the delinquent real property tax which was not paid timely, together with interest and penalty as provided in this chapter for the late payment of real property tax.

(d)(1) The Mayor may contract with a collection agency inside or outside of the District to verify the contents of any application form or return for the purposes of determining the eligibility of any homestead.

(2) All funds collected by the collection agency and belonging to the District shall be remitted to the Mayor not less than once a month. Forms to be utilized for the remittances may be prescribed by the Mayor. The Mayor may require that the collection agency furnish a bond securing compliance with the provisions of this subsection and the contract with the District.

(3) At the discretion of the Mayor:

(A) The collection agency may charge a collection fee not in excess of 25% of the total amount of the delinquent taxes, excluding penalties and interest, that is actually collected; or

(B) The collection agency may be remunerated by fee, percentage of taxes collected, or both.

(4) Notwithstanding any other provision contained in this title, confidential information related to the owner of the real property may be provided to a collection agency for purposes of collecting a delinquent tax under this chapter. If the information is provided to a collection agency under this subsection, the collection agency shall not disclose the information to a third party, other than the owner (or his or her representative), unless the Mayor would be authorized by law to make the disclosure. A collection agency, or employee of a collection agency, violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned for not more than 180 days, or both. All prosecutions under this paragraph shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District of Columbia.

(June 25, 2002, D.C. Law 14-147, § 2(e), 49 DCR 4219; June 5, 2003, D.C. Law 14-307, § 1303(e), 49 DCR 11664; Mar. 13, 2004, D.C. Law 15-105, § 80(c)(2), 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 73(b)(5), 52 DCR 2638; Aug. 15, 2008, D.C. Law 17-216, § 4(d), 55 DCR 7500; Mar. 25, 2009, D.C. Law 17-345, § 2(c), 56 DCR 962; July 13, 2012, D.C. Law 19-155, § 2(c), 59 DCR 5590.)

Section references. — This section is referenced in § 47-405 and § 47-3504.

Effect of amendments.

D.C. Law 19-155 rewrote subsec. (b-1), which formerly read:

"(b)(1) If a real property no longer qualifies as a homestead, the applicant (or current owner if there is no applicant) shall notify the Mayor of the date of the change in eligibility within 30 days after the change in eligibility. If the applicant (or current owner if there is no applicant) fails to notify timely, the deduction shall be rescinded without limitation for each tax year. Penalty and interest shall be added from the day the correct amount of tax was due but not paid."

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

§ 47-859.02. Tax abatements for new residential developments — Requirements for tax abatements for new residential developments.

(a) Subject to paragraph (1) of this subsection and subsection (b) of this section, and to the tax abatement limits imposed by § 47-859.04, the Mayor shall approve a tax abatement under § 47-859.03 for an Eligible Real Property if:

(1) The owner, or his designee or assignee, receives:

(A) A final building permit for the mechanical, electrical, plumbing, and heating, ventilation, and air conditioning systems for the building's superstructure; or

(B) A letter from both the building architect and the Mayor certifying that the 1st level of concrete has been laid and the building has received a building permit for both the building's sheeting, shoring, and excavation work and the building's foundation to grade structural work;

(2) The owner, or his designee or assignee, requests a certification letter from the Mayor stating that the Eligible Real Property and project are approved for the tax abatement in a stated amount;

(3) The Mayor transmits to the owner, or his designee or assignee, the certification letter requested under paragraph (2) of this subsection; and

(4) The building permit for the project's superstructure is received after January 1, 2008.

(b) A tax abatement shall not be allowed under § 47-859.03:

(1) Unless the owner, or his designee or assignee, satisfies subsections (a)(1) and (2) of this section on or before December 31, 2013;

(2) Unless the 1st level of concrete for the project has been laid either before or within 6 months after the date the certification letter is transmitted by the Mayor under subsection (a)(3) of this section, if certification was requested based upon subsection (a)(1)(A) of this section;

(3) If the project has not received a certificate of occupancy within 36 months after the date the certification letter is transmitted by the Mayor under subsection (a)(3) of this section; provided, that the Mayor may extend the 36-month period for up to 6 months if the building's construction has reached grade, as certified by the project architect and the Mayor;

(4) If the improvement of the Eligible Real Property is financed in any part under subchapter IX of Chapter 12 of Title 2;

(5) If the Eligible Real Property receives relief under § 42-3508.02; or

(6) If the Eligible Real Property was owned by the District of Columbia, or one of its instrumentalities, as of January 1, 2008.

(c) Repealed.

(d)(1) The Mayor shall, as nearly as practicable, review requests for certification in the order in which they were received and shall complete review of such requests for certification within 45 days after receipt.

(2) A copy of all certification letters transmitted by the Mayor pursuant to subsection (a)(3) of this section shall be sent to the Office of Tax and Revenue.

(July 7, 2009, D.C. Law 18-10, § 2(b), 56 DCR 3598; Mar. 19, 2013, D.C. Law 19-237, § 2, 59 DCR 14778.)

Section references. — This section is referenced in § 47-859.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-237 substituted "subsection (b) of this section" for "subsections (b) and (c) of this section" in (a); substituted "December 31, 2013" for "December 31, 2012" in (b)(1); and repealed (c), which read: "The number of residential dwelling units that may be approved under § 47-859.03 for the tax abatement under § 47-859.04 shall be limited to 3,000 units in the aggregate. The Mayor shall keep a record of the number of residential dwelling units that are approved under § 47-859.03 and § 47-859.04".

Emergency legislation. — For temporary amendment of section, see § 2 of the NoMA Residential Development Tax Abatement Emergency Act of 2012 (D.C. Act 19-600, January 14, 2013, 60 DCR 1036), applicable as of December 30, 2012.

Legislative history of Law 19-237. — Law 19-237, the "NoMA Residential Development Tax Abatement Act of 2012," was introduced in Council and assigned Bill No. 19-670. The Bill was adopted on first and second readings on Nov. 1, 2012, and Nov. 15, 2012, respectively. Signed by the Mayor on Dec. 2, 2012, it was assigned Act No. 19-554 and transmitted to Congress for its review. D.C. Law 19-237 became effective on Mar. 19, 2013.

Subchapter III. Miscellaneous.

§ 47-863. Reduced tax liability for property owners over age 65 and for property owners with disabilities; rules.

(a) For the purposes of this section, the term:

(1) "Adjusted gross income" shall have the same meaning as in section 62 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 17; 26 U.S.C. § 62).

(1A) "Eligible household" means:

(A) In the case of a house or condominium, an individual's residence:

(i) That comprises a dwelling unit;

(ii) That is Class 1 Property, as defined in § 47-813, and contains not more than 5 dwelling units therein;

(iii)(I) That is owned at least 50%, in whole or in part, by the individual who:

(aa) Is 65 years of age or older; and

(bb) Whose household adjusted gross income is less than $100,000; or

(II)(aa) Has been determined to have a permanent and total disability by the Social Security Administration, is receiving Supplemental Security Income or Social Security Disability, is receiving railroad retirement disability benefits, or is receiving federal or District of Columbia government disability payments; and

(bb) Whose household adjusted gross income is less than $100,000.

(B) In the case of a cooperative housing association that is Class 1 Property, as defined in § 47-813, a shareholder's or member's residence:

(i) That comprises a dwelling unit;

(ii) That is owned at least 50%, in whole or in part, by the individual who:

(I)(aa) Is 65 years of age or older; and

(bb) Whose household adjusted gross income is less than $ 100,000; or

(II)(aa) Has been determined to have a permanent and total disability by the Social Security Administration, is receiving Supplemental Security Income or Social Security Disability, is receiving railroad retirement disability benefits, or is receiving federal or District of Columbia government disability payments; and

(bb) Whose household adjusted gross income is less than $ 100,000; and

(iii) That, by reason of his or her ownership of stock or membership certificate, a proprietary lease, or other evidence of membership, is occupied by right by the shareholder or member with at least a 50% interest which permits the occupation of the dwelling unit.

(2) "Household adjusted gross income" means the adjusted gross income of all persons residing in a household, excluding the adjusted gross income of any person who is a tenant by virtue of a written lease for fair market value.

(3) "Residence" means the principal place of residence in the District of an individual, shareholder, or member, who is domiciled in the District.

(4) Repealed.

(5) "Taxable assessment" means the assessed value of the real property, reduced, if applicable, by the credit under § 47-864 or the deduction under § 47-850.

(b)(1) In the case of a house or condominium, an eligible household shall be eligible for a 50% deduction in computing real property tax liability. The deduction shall be computed by multiplying the tax rate by 50% of an amount equal to the current tax year's taxable assessment. The deduction shall be apportioned equally between each installment during a tax year and shall not be carried forward or carried back.

(2)(A) In the case of a cooperative housing association, the deduction shall be computed by multiplying the tax rate by 50% of an amount equal to the current tax year's taxable assessment attributable to the eligible household. The deduction shall be apportioned equally between each installment during a tax year and shall not be carried forward or carried back.

(B) The taxable assessment attributable to the eligible household shall be determined in the same manner as the cooperative housing association was assessed under § 47-820.01, including any prorations thereunder.

(c)(1) In the case of a house or condominium, and to qualify the eligible household to receive the deduction, the individual shall complete and file with the Mayor an application in a form prescribed by the Mayor. The individual shall certify, under penalty of perjury, the information provided on the application form and the application form shall be filed in the manner prescribed by the Mayor. The Mayor may require the individual to provide any information which the Mayor considers necessary, including all taxpayer identification numbers of the individual, any other owner, any person with legal or equitable title, and any person in the household of the individual. The Mayor may also require the individual, any other owner, any person with legal or equitable title, and any person in the household of the individual to submit information after the deduction has been allowed to determine whether the real property remains an eligible household and entitled to the deduction.

(2)(A) For the cooperative housing association to qualify and receive the deduction, the shareholder or member shall complete and file with the Mayor an application in a form prescribed by the Mayor. The shareholder or member shall certify, under penalty of perjury, the information provided on the application form, and the application form shall be filed in the manner prescribed by the Mayor. The Mayor may require the shareholder or member to provide any information which the Mayor considers necessary, including the taxpayer identification numbers of the shareholder or member, any other person with an ownership or membership interest, and any person in the household of the shareholder or member. The Mayor may also require the shareholder or member, any other person with an ownership or membership interest, and any person in the household of the shareholder or member to submit information after the deduction has been granted to determine whether the cooperative housing association remains entitled to the deduction for the eligible household.

(B) The Mayor may require the officers or managers of the cooperative housing association to distribute the application forms to its shareholders or members and to collect the completed application forms from the shareholders or members for return to the Mayor. Officers and managers of a cooperative housing association shall submit such other information as the Mayor may require.

(C) The deduction shall be passed on to the eligible household by the cooperative housing association during the corresponding tax year.

(d) If a properly completed and approved application is filed during the period October 1 through March 31 of the tax year, the real property shall receive the deduction for the entire tax year. Notwithstanding subsection (b) of this section, if a properly completed and approved application is filed during the period April 1 through September 30, the real property shall receive ½ of the deduction, which shall be applied to the second installment only.

(e) The application form filed by the individual, shareholder, or member shall apply to the initial tax year, or applicable installment, and to any succeeding tax year thereafter for which the deduction is allowed.

(f)(1) Within 45 days from the date of the notice rescinding or denying the deduction, the owner may petition for an administrative review of the rescission or denial and appeal from a final determination thereof to the same extent as if the appeal were filed under § 47-825.01a(d)(2).

(2) Notwithstanding paragraph (1) of this subsection, if the eligible household is transferred and continued to qualify for the deduction 30 days or less before the date of execution of the deed of transfer, the applicant shall not be required to notify the Mayor of the change in eligibility.

(3) If the tax is paid within 30 days of the corresponding bill, timely notification of the change in eligibility shall preclude assessment of penalty and interest.

(4) If the change in eligibility occurs during the period October 1 through March 31 of the tax year, the deduction shall be disallowed for the entire tax year.

(5) Notwithstanding subsection (a) of this section, if the change in eligibility occurs during the period April 1 through September 30, the real

property shall receive ½ of the deduction, which shall be applied to the first installment only.

(6)(A) Notwithstanding the rescissions of the deduction pursuant to paragraphs (4) and (5) of this subsection, if the applicant's required ownership interest in the real property is transferred to a new owner, shareholder, or member who does not apply or qualify for the deduction, the real property shall nevertheless be entitled to the apportioned amount of the deduction applicable to the installment payable during the half tax year during which such ownership interest was transferred. At the end of the half tax year, the deduction shall cease.

(B) If the applicant purchases another real property or interest in a housing cooperative for which he or she shall make application for the deduction, and the application and purchase occurs during the same half tax year when the transfer occurred, subsections (i) and (j) of this section shall not apply to the extent that both real properties may benefit from the deduction during that half tax year and, thereafter, only the newly purchased real property or housing cooperative in which the applicant acquired newly an interest shall benefit from the applicant's deduction.

(C) Notwithstanding the foregoing, a real property shall not benefit from more than one deduction in any half tax year; provided, that in the case of a housing cooperative, the real property shall not benefit from more than one deduction related to an eligible household in any half tax year.

(f-1) A denial of the deduction shall be subject to the provisions of § 47-813(d-1)(3A) to the same extent as an appeal of a Class 3 classification.

(g) If real property tax is owing as a result of an erroneous or improper deduction, the following shall apply:

(1) Except in the case of cooperative housing associations, if the eligible household was transferred, the applicant or former owner, and not the real property shall be personally liable for the amount of the delinquent real property tax which was not paid timely during the period when the applicant or former owner had an ownership interest in the eligible household, together with interest and penalty at the same rate as provided in this chapter for the late payment of real property tax. The tax shall be considered due on the date that the total amount of real property tax was due but unpaid and shall be collected in the manner prescribed under Chapter 44.

(2) Notwithstanding paragraph (1) of this subsection, if the eligible household was transferred and the grantee failed to timely record a deed under § 47-1431 (or other evidence of the transfer in the case of a cooperative housing association), the real property shall be liable for the amount of the delinquent real property tax which was not timely paid, together with interest and penalty as provided in this chapter for the late payment of real property tax.

(3) In all other cases, the real property shall be liable for the amount of the delinquent real property tax which was not paid timely, together with interest and penalty as provided in this chapter for the late payment of real property tax.

(h) The eligibility of an eligible household for the deduction shall not be affected by the transfer of the eligible household into a revocable trust if the

transfer is without consideration and the eligible household remains the residence of the applicant-grantor before and after the transfer.

(i) No other person in the household of the individual, shareholder, or member shall claim a deduction for an eligible household in the District. The cooperative housing association shall not receive a deduction for an eligible household if the basis of the deduction is another person in the household of the shareholder or member.

(j) If an individual, shareholder, or member claims more than one eligible household in the same tax year, and has not timely notified the Mayor of all changes in eligibility, the Mayor shall disallow the deduction for all eligible households claimed by the individual, shareholder or member.

(k)(1) The Mayor may contract with a collection agency inside or outside of the District to verify the contents of any application form or return for the purposes of determining the eligibility of any eligible household.

(2) All funds collected by the collection agency and belonging to the District shall be remitted to the Mayor not less than once a month. Forms to be utilized for the remittances may be prescribed by the Mayor. The Mayor may require that the collection agency furnish a bond securing compliance with the provisions of this subsection and the contract with the District.

(3) At the discretion of the Mayor:

(A) The collection agency may charge a collection fee not in excess of 25% of the total amount of the delinquent taxes, excluding penalties and interest, that is actually collected; or

(B) The collection agency may be remunerated by fee, percentage of taxes collected, or both.

(4) Notwithstanding any other provision contained in this title, confidential information related to the owner of the real property may be provided to a collection agency for purposes of collecting a delinquent tax under this chapter. If the information is provided to a collection agency under this subsection, the collection agency shall not disclose the information to a third party, other than the owner (or his or her representative), unless the Mayor would be authorized by law to make the disclosure. A collection agency, or employee of a collection agency, violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned for not more than 180 days, or both. All prosecutions under this paragraph shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District of Columbia.

(l) In the case of a house or a condominium, the real property tax bill shall indicate whether the real property is receiving the deduction.

(Sept. 23, 1986, D.C. Law 6-153, § 5, 33 DCR 4787; Mar. 7, 1992, D.C. Law 9-56, § 5, 38 DCR 7281; Sept. 10, 1992, D.C. Law 9-145, § 105, 39 DCR 4895; Oct. 7, 1992, D.C. Law 9-177, § 8, 39 DCR 5868; June 14, 1994, D.C. Law 10-127, § 2, 41 DCR 2050; enacted, Apr. 9, 1997, D.C. Law 11-254,§ 2, 44 DCR 1575; June 25, 2002, D.C. Law 14-147, § 2(g), 49 DCR 4219; Apr. 4, 2003, D.C. Law 14-282, § 11(l), 50 DCR 896; June 5, 2003, D.C. Law 14-307, § 1303(f), 49

DCR 11664; Mar. 13, 2004, D.C. Law 15-105, § 72(c), 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 1162(e), 51 DCR 8441; Apr. 13, 2005, D.C. Law 15-354, § 73(b)(6), 52 DCR 2638; Oct, 20, 2005, D.C. Law 16-33, §§ 1082(c), 1262(b), 1297(a)(3), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 102, 54 DCR 6794; Apr. 24, 2007, D.C. Law 16-305, § 73(b), 53 DCR 6198; Aug. 15, 2008, D.C. Law 17-216, § 4(e), 55 DCR 7500; Mar. 25, 2009, D.C. Law 17-345, § 2(e), 56 DCR 962; July 13, 2012, D.C. Law 19-155, § 2(d), 59 DCR 5590; July 13, 2012, D.C. Law 19-165, § 2, 59 DCR 6188.)

Section references. — This section is referenced in § 47-405, § 47-845.02, § 47-845.03, § 47-1803.02, and § 47-1806.09a.

Effect of amendments.

D.C. Law 19-155 rewrote subsec. (f-1).

D.C. Law 19-165, § 2(b), rewrote subsecs. (a)(2) and (3).

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

Legislative history of Law 19-165. — Law 19-165, the "Age-in-Place and Equitable Senior Citizen Real Property Act of 2012", was introduced in Council and assigned Bill No. 19-512, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 18, 2012, it was assigned Act No. 19-375 and transmitted to both Houses of Congress for its review. D.C. Law 19-165 became effective on July 13, 2012.

Editor's notes.

D.C. Law 19-165, § 2(a) amended paragraphs (a)(1A)(A)(iii)(I)(bb) and (a)(1A)(B)(iii)(II)(bb) of this section by striking the figure "$100,000" wherever it appears and inserting the figure "$125,000" in its place, subject to the inclusion of its fiscal effect in an approved budget and financial plan. As of April 1, 2013, this certification has not occurred; therefore the amendment has not been implemented.

§ 47-864. Owner-occupant residential tax credit.

Section references. — This section is referenced in § 47-824, § 47-863, and § 47-3503.

Editor's notes.

Applicability of D.C. Law 18-111: Section 7072 of D.C. Law 18-111, as amended by D.C. Law 19-171, § provided: "Applicability. Section 7071 shall apply to tax periods beginning after September 30, 2009."

§ 47-864.01. Owner-occupant residential tax credit (conditional). [Repealed].

Editor's notes.

Applicability of D.C. Law 18-111: Section 7072 of D.C. Law 18-111, as amended by D.C. Law 19-171, § provided: "Applicability. Section 7071 shall apply to tax periods beginning after September 30, 2009."

Subchapter V. New York Avenue Metro Special Assessment District.

§ 47-883. Levy of special assessment; protest; termination of levy.

(a)(1) Beginning with tax year 2002, there is hereby levied a special assessment upon each tax lot of real property located within the MBA which:

(A) Is shown on the zoning map of the District as being located in a district that is zoned commercial;

(B) Is not exempt from real property tax under Chapter 8 of this title; and

(C) At any time after December 31, 2000, included a land area of at least 10,000 square feet.

(2) When a special assessment under this subchapter appears on the real property tax bill, the special assessment shall not be required to be certified for purposes of Chapter 13A of this title.

(b) Within 120 days after [June 6, 2001], the CFO shall determine the total debt service projected to be paid on the initial General Obligation Bonds from their date of issuance through maturity, which amount shall constitute the Special Assessment Total Collection Amount; provided, that the Special Assessment Total Collection Amount shall be subject to adjustment after the initial determination if the CFO determines and certifies that the actual debt service payable on the initial General Obligation Bonds will be less than the amount projected. The Special Assessment Annual Collection Amount shall be 1/30 of the Special Assessment Total Collection Amount.

(c) Within 120 days after [June 6, 2001], the CFO shall determine the tax lots of real property which are subject to the special assessment under subsection (a) of this section, the total assessed value real property tax purposes of each tax lot, and the aggregate total assessed value for real property tax purposes of all tax lots. The valuation shall be determined as of the real property tax valuation date for tax year 2000.

(d) Within 120 days after [June 6, 2001], the CFO shall determine the Special Assessment Factor, which shall be computed by dividing the Special Assessment Annual Collection Amount by the aggregate assessed value determined under subsection (c) of this section; provided, that the CFO may increase the Special Assessment Factor at any time by the amount that the CFO determines to be necessary to ensure that the special assessments under this section shall be at least equal to the Special Assessment Annual Collection Amount in each year. The special assessment applicable to each tax lot shall be determined by multiplying the Special Assessment Factor by the total assessed value of each tax lot as of [June 6, 2001], or, for any tax lot which becomes subject to the special assessment after [June 6, 2001], the date on which the tax lot becomes subject to the special assessment. Each special assessment shall be made part of the public record.

(e)(1) Within 180 days after [June 6, 2001], the CFO shall give notice of the special assessment to the owner, as shown on the real property tax records of the District, of each tax lot of real property which is subject to the special assessment under this subchapter on [June 6, 2001]. The notice shall state the amount of the proposed special assessment and the procedure for any protest with respect to the special assessment.

(2) If a tax lot becomes subject to this subchapter after [June 6, 2001], the CFO shall give notice of the special assessment to the owner, as shown on the real property tax records of the District, of such tax lot. The notice shall state the amount of the proposed special assessment and the procedure for any protest with respect to the special assessment.

(f) The owner of a tax lot subject to special assessment under this subchapter may protest the amount of a special assessment levied by filing a protest with the Real Property Tax Appeals Commission for the District of Columbia

("Commission"), on a form prescribed by The Real Property Tax Appeals Commission for the District of Columbia, within 30 days after notice of assessment. The protest shall be reviewed by the Real Property Tax Appeals Commission for the District of Columbia in accordance with § 47-825.1. Each decision of the Real Property Tax Appeals Commission for the District of Columbia shall be maintained by the Board and shall be made available for examination and photocopying at cost to any requestor.

(g) Special assessments levied under this subchapter shall be collected at the same time and in the same manner as real property taxes under this chapter are collected.

(h) An unpaid special assessment shall be subject to the same penalty and interest provisions as a delinquent real property tax under this chapter. A lien for an unpaid special assessment, including penalty and interest, shall attach to the real property in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. The unpaid special assessment shall be collected in accordance with Chapter 13A of the title.

(i) The levy of special assessments shall terminate on the date on which the Special Assessment Total Collection Amount has been received by the District, as certified by the CFO to the Mayor under § 47-884.

(Oct. 26, 2001, D.C. Law 14-44, § 2, 48 DCR 7665; June 12, 2003, D.C. Law 14-310, § 11(b), 50 DCR 1092; Apr. 8, 2011, D.C. Law 18-363, § 3(g)(9), 58 DCR 963; Sept. 26, 2012, D.C. Law 19-171, § 114(l), 59 DCR 6190.)

Section references. — This section is referenced in § 47-881.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Commission" for "Board" throughout (f).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter VI. Southeast Water and Sewer Improvement Benefit District.

§ 47-893. Levy of special assessment; protest; termination of levy.

(a) Beginning in tax year 2008, there is levied a special assessment upon each real property located within the Southeast Water and Sewer Improvement Benefit District, except the following:

(1) Real properties owned by the District of Columbia, except an independent instrumentality or authority of the District of Columbia, the United States, or the Washington Metropolitan Area Transit Authority; provided, that if an interest in or use of the land of such real property is subject to taxation under § 47-1005.01 because of a ground lease and the improvement is privately owned, the interest in or use of the land and the improvement shall be subject to the special assessment imposed by this subchapter based on the

land area of the interest and the actual gross building area of the improvement (if not subject to District zoning) or the gross building area of the improvement (if subject to District zoning); provided further, that if the real property becomes owned by an entity other than the District of Columbia, the United States, or the Washington Metropolitan Area Transit Authority, the provisions of this paragraph shall not exempt the real property from the special assessment imposed by this subchapter;

(2) Real properties on which, on June 1, 2007, occupied residential were located; provided, that after June 1, 2007, if the real property is redeveloped for nonresidential uses, or if the real property becomes part of a development project that may include a condominium regime, that consists of 5 or more dwelling units, the provisions of this paragraph shall not exempt the real property or subdivisions thereof from the special assessment imposed by this subchapter;

(3) Real properties on which, on June 1, 2007, an active house of worship with a tax-exempt status was located; provided, that after June 1, 2007, if the real property is later used for a purpose other than as a house of worship, the provisions of this paragraph shall not exempt the real property from the special assessment imposed by this subchapter; or

(4) Real properties that received a certificate of occupancy for a building of over 10,000 square feet between January 1, 2003, and June 1, 2007, or which had a utility plan related to a building permit approved by the District of Columbia Water and Sewer Authority between January 1, 2006, and October 31, 2006.

(b) The special assessment applicable to a real property shall be equal to the sum of:

(1) The storm drainage assessment factor of 0.118 multiplied by the land area of the real property or interest therein; and

(2) The water and sewer assessment factor of 0.0346 multiplied by the gross building area of the real property.

(c)(1) Within 180 days after the effective date of this subchapter, for tax year 2008, the Chief Financial Officer shall determine each real property that is subject to the special assessment under this subchapter and give notice of the special assessment to the owner, as shown on the real property tax records of the District. The notice shall state the amount of the proposed special assessment and the procedure for appeal set forth in subsection (e) of this section. The Chief Financial Officer shall not recalculate either factor because an additional real property has become subject to the special assessment after the first determination under this paragraph. No further notice shall be required for future tax years.

(2) If a real property becomes subject to the special assessment imposed by this subchapter after [January 29, 2008], the Chief Financial Officer shall give notice of the special assessment to the owner, as shown on the real property tax records of the District, of such real property within 90 days after the Chief Financial Officer determines the real property has become subject to the special assessment. The notice shall state the amount of the proposed special assessment and the procedure for appeal set forth in subsection (e) of

this section. The real property shall become liable for the special assessment as of the beginning of the next succeeding tax year from the date on which such real property became subject to the special assessment. No further notice shall be required for future tax years.

(3) The owner of a real property may elect at least once annually and upon the sale of a real property, under procedures established by the Chief Financial Officer, to pay in a lump sum payment equal to the present value, calculated as of the next succeeding June 30th at an annual discount rate of 4.5%, of the total amount of all future annual special assessments to which the Chief Financial Officer determines the real property is subject under this subchapter. If the owner makes such a lump sum payment within 30 days from the date of the special assessment bill from the Chief Financial Officer, the real property shall not be subject to future annual special assessments under this subchapter.

(d) If the Chief Financial Officer learns that a real property subject to the special assessment has been omitted from the special assessment for any previous tax year, the Chief Financial Officer shall provide notice under subsection (e) of this section to the owner for the succeeding, current, and prior tax years, and shall collect the special assessment amount in arrears, including penalty and interest from the date the special assessment should have been paid; provided, that no real property that has escaped the special assessment shall be liable under this section for a period of more than 3 prior tax years. No further notice shall be required for future tax years.

(e) The owner of a real property subject to special assessment under this subchapter, when first provided notice of a special assessment under this subchapter, may petition for administrative review, and appeal from a final determination made upon administrative review, of the amount of a special assessment, or the imposition of the special assessment, on the real property or interest therein in the same manner and to the same extent as set forth in § 47-825.01(f-1) as if the owner were a new property owner; provided, that for purposes of the new owner appeal, the date of transfer shall be deemed to be the date of the notice and the tax year shall be deemed to be the last tax year included in the notice; provided further, that notwithstanding the foregoing, the notice under subsection (c)(1) of this section shall be mailed on or before March 1, 2008 and the owner may petition for an administrative review on or before April 1, 2008 and appeal therefrom to the same extent and under the same conditions as a real property owner may appeal his tax year 2009 real property tax assessment.

(f) Beginning in tax year 2008, special assessments under this subchapter shall be levied annually and shall be due on June 30 of the tax year. The owner shall have 30 days to pay the special assessment bill before the bill is due.

(g)(1) Except as provided in paragraph (2) of this subsection, an unpaid special assessment shall be subject to the same penalty and interest provisions as a delinquent real property tax under this chapter. A lien for an unpaid special assessment, including penalty and interest, shall attach to the real property in the same manner as, and with a priority immediately junior to, a lien for delinquent real property tax under Chapter 13A [of this title]. The

unpaid special assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for unpaid real property taxes.

(2) If an interest in, or use of the land of, a real property is subject to the special assessment because it is subject to taxation under § 47-1005.01, an unpaid special assessment on such interest or use shall be subject to the same penalty and interest provisions as a delinquent tax imposed under § 47-1005.01, and the unpaid special assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for an unpaid tax imposed under § 47-1005.01.

(h) The levy of special assessments under this subchapter shall terminate on the date on which the special assessment total collection amount has been received by the District, as certified by the Chief Financial Officer.

(i) A special assessment imposed under this subchapter shall not be required to be certified for the purposes of Chapter 13A of this title.

(j) Each special assessment shall be made part of the public record.

(k) The total collection amount from the Southeast Water and Sewer Improvement Benefit District shall not exceed the amount required to pay the debt service on a total amount of $12.45 million of borrowing authority, which shall represent the special assessment total collection amount of the properties subject to the assessment under this subchapter.

(Jan. 29, 2007, D.C. Law 17-89, § 2(b), 54 DCR 11919; July 13, 2012, D.C. Law 19-155, § 2(e), 59 DCR 5590.)

Section references. — This section is referenced in § 47-891 and § 47-894.

Effect of amendments. — D.C. Law 19-155 rewrote subsec. (e), which formerly read:

"(e) The owner of a real property subject to special assessment under this subchapter, when first provided notice of a special assessment under this subchapter, may petition for administrative review, and appeal from a final determination made upon administrative review, of the amount of a special assessment, or the imposition of the special assessment, on the real property or interest therein in the same manner and to the same extent as set forth in § 47-825.01(f-1) as if the owner were a new property owner; provided, that for purposes of the new owner appeal, the date of transfer shall be deemed to be the date of the notice and the tax year shall be deemed to be the last tax year included in the notice; provided further, that notwithstanding the foregoing, the notice under subsection (c)(1) of this section shall be mailed on or before March 1, 2008 and the owner may petition for an administrative review on or before April 1, 2008 and appeal therefrom to the same extent and under the same conditions as a real property owner may appeal his tax year 2009 real property tax assessment."

Legislative history of Law 19-155. — For history of Law 19-155, see notes under § 47-825.01a.

CHAPTER 9. TRANSFER TAX ON REAL PROPERTY.

§ 47-902. Enumeration of transfers exempt from tax.

The following transfers shall be exempt from the tax imposed by this chapter:

(1) Repealed;

(2) Transfers of property by the United States of America or the District of Columbia governments, unless its taxation has been authorized by Congress;

(3) Transfers of real property by an institution, organization, corporation, or government receiving a valid real property tax exemption for the real property under § 47-1002 (or exempt from transfer taxes under a law of the United States of America or the District of Columbia); provided further, that this exemption shall not apply to property which is exempt under § 47-1002(29) or § 47-1002(30);

(4) Repealed;

(5) Transfers between spouses, parent and child, grandparent and grandchild, or domestic partners as defined in § 32-701(3), without actual consideration therefor;

(6) Transfers evidenced by deeds of release of property which is security for a debt or other obligation;

(7) Transfers which secure a debt or other obligation;

(8) Transfers which, without additional consideration, confirm, correct, modify, or supplement a transfer previously recorded;

(9) Transfers of property to a qualifying lower income homeownership household in accordance with § 47-3503(b);

(10) Transfers of property to a qualifying nonprofit housing organization in accordance with § 47-3505(b);

(11) Transfers of property to a cooperative housing association in accordance with § 47-3503(b)(2);

(12) A transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust;

(13) A transfer of property to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust;

(14) A transfer of property by the trustee of a revocable trust if the transfer would otherwise be exempt under this section if made by the grantor of the revocable trust;

(15) The transfer of property to a resident management corporation in accordance with § 47-3506.01;

(16)(A) A transfer of property to an entity in accordance with § 29-204.06;

(B) In order for limited liability companies to receive the exemption provided in subparagraph (A) of this paragraph, the Director of the Department of Finance and Revenue shall be notified, within 30 days, of any change to the members or interests in profits and losses during the 12-month period following the effective date of the conversion so that the applicable transfer tax can be imposed; and

(C) Violation of the provisions of subparagraph (B) of this paragraph shall be punishable pursuant to § 47-918 [repealed];

(17)(A) Transfers with respect to the real property (and any improvements thereon) described as Square 454, Lots 41, 824, 838, 857, 877, 878; the portion of the public alley that reverted to (i) former Lot 820, (which is currently known as Lot 866), and (ii) former Lot 821 (which is currently known as Lot 867) pursuant to the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Liber 17 at folio 74; the portions of the public alley that will revert to Lots 41, 824, 838, 857, 877 and 878, all in Square 454, pursuant to the alley closing approved by the Closing of Public Alleys in Square 454 and Square 455, S.O. 98-194 Act of 1999, effective October 22, 1999 (D.C. Law 13-48; 46 DCR 6768).

(B) The amount of all taxes, fees, and deposits exempt, abated, or waived under this paragraph, section 2(b) of the Gallery Place Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-241; 48 DCR 610) [§ 2-1217.31(b)], and §§ 45-922(24) [§ 42-1102(24)], 47-1002(26), and 47-2005(32) [§ 47-2005(30)], shall not exceed, in the aggregate, $7 million;

(18) Deeds of personal representatives of decedents, acting under the provisions of Title 20, transferring to a distributee, without additional consideration, real property of a decedent or a life estate in real property;

(19)(A) Transfers with respect to the real property (and any improvements thereon) described as Square 299, Lot 831, in connection with the debt or equity financing for the Mandarin Oriental Hotel Project until the Development Sponsor sells the Mandarin Oriental Hotel Project, as evidenced by the recordation of a deed conveying title to Square 299, Lot 831, at which time such amounts shall be due and payable without penalty or interest.

(B) The amount of all taxes, fees, and deposits deferred under this paragraph, section 2(b) of the Mandarin Oriental Hotel Tax Deferral Act of 2002, passed on 2nd reading on September 17, 2002 (Enrolled version of Bill 14-466) [§ 2-1217.32(b)], and §§ 42-1102(25), 47-1002(27), and 47-2005(33) [§ 47-2005(34)], shall not exceed, in the aggregate, $4 million.

(C) For purposes of this paragraph, the term:

(i) "Development Sponsor" means Portals Hotel Site, LLC, a Delaware limited liability company, and its successors and assigns.

(ii) "Mandarin Oriental Hotel Project" means the acquisition and initial development, construction, equipping, and furnishing of a Mandarin Oriental hotel within the Portals project, located on Square 299, Lot 831, consisting of a 400-room hotel with approximately 33,000 square feet of associated meeting and banquet space, 2 restaurants, a health spa and fitness center totaling approximately 10,000 square feet, and approximately 90,000 square feet of public parking space for approximately 200 cars.

(iii) "Mandarin TIF Bonds" means the tax increment financing bonds issued in connection with the Mandarin Oriental Hotel Project pursuant to the Tax Increment Revenue Bonds Mandarin Hotel Project Emergency Approval Resolution of 2000, effective March 7, 2000 (Res. 13-510; 47 DCR 2133), and the Mandarin Hotel Project Modification Approval Resolution of 2000, effective December 19, 2000 (Res. 13-745; 48 DCR 83).

(D) This paragraph shall apply upon the closing of the sale of the Mandarin TIF Bonds;

(20) Transfers pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation;

(21) Transfers by an entity described in paragraph (3) of this section of a lease or ground rent for a term (including renewals) that is at least 30 years;

(22)(A) Transfers of residential real property, without consideration for the transfer, to the trustee of a special needs trust established for the benefit of a trust beneficiary who has a disability, as defined in section 1614(a)(3) of the Social Security Act, 86 Stat. 1471; 42 U.S.C. § 1382c(a)(3)), or from the trustee of a special needs trust that, by its terms, terminates upon the death of the trust beneficiary with a disability.

(B) For the purposes of subparagraph (A) of this paragraph, a trust is a special needs trust if the trust instrument:

(i) States, among its purposes, that the trust assets are not intended to be counted in determining the beneficiary's eligibility for needs-based governmental benefits; and

(ii)(I) Names the beneficiary with a disability as the sole trust beneficiary during his or her lifetime; and

(II) Provides that the beneficiary with a disability may not serve as trustee.

(23) Transfers of property to a qualifying low- or moderate-income household pursuant to the Inclusionary Zoning Program established by subchapter II-A of Chapter 10 of Title 6.

(24) Transfer of real property to the District of Columbia, without consideration for the transfer, at the request of the District of Columbia, and conveyed as a bona fide gift to the District of Columbia.

(Sept. 13, 1980, D.C. Law 3-92, § 402, 27 DCR 3390; Mar. 10, 1982, D.C. Law 4-72, § 2, 28 DCR 5273; Oct. 8, 1983, D.C. Law 5-31, § 10(a), 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 4, 36 DCR 457; Mar. 7, 1992, D.C. Law 9-56, § 2, 38 DCR 7281; June 11, 1992, D.C. Law 9-120, § 4(b), 39 DCR 3195; Sept. 8, 1995, D.C. Law 11-38, § 4(c), 42 DCR 3269; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 3, 2001, D.C. Law 13-241, § 4(a), 48 DCR 610; June 9, 2001, D.C. Law 13-305, § 505(b), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, §§ 33(k), 36(d), 49 DCR 8140; Mar. 25, 2003, D.C. Law 14-232, § 4(a), 49 DCR 9764; Apr. 4, 2003, D.C. Law 14-282, § 11(o), 50 DCR 896; Mar. 13, 2004, D.C. Law 15-105, § 38(b)(1), 51 DCR 881; Sept. 8, 2004, D.C. Law 15-176, § 5, 51 DCR 5707; Apr. 5, 2005, D.C. Law 15-293, § 13(a), 52 DCR 1465; Apr. 13, 2005, D.C. Law 15-354, § 73(c), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, §§ 1213, 1297(b), 52 DCR 7503; Mar. 14, 2007, D.C. Law 16-275, § 204, 54 DCR 880; Mar. 24, 2007, D.C. Law 16-305, § 73(c), 53 DCR 6198; Mar. 20, 2008, D.C. Law 17-118, § 202(a), 55 DCR 1461; Sept. 12, 2008, D.C. Law 17-231, § 41(d), 55 DCR 6758; Sept. 14, 2011, D.C. Law 19-21, § 7052, 58 DCR 6226; Mar. 5, 2013, D.C. Law 19-210, § 4(a), 59 DCR 13171.)

Section references. — This section is referenced in § 2-1217.31, § 2-1217.32, § 42-1102, § 47-903, § 47-1002, § 47-2005, § 47-3503, § 47-3505, and § 47-3506.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-210 substituted "to an entity in accordance with § 29-204.06" for "to a limited liability company in accordance with § 29-1013" in (16)(A).

Temporary Amendment of Section. — Section 104 of D.C. Law 19-226 amended this section by adding a new paragraph (25) to read as follows:

"(25) Transfers of property if the Mayor has certified that the property and purchaser are eligible for exemption from property taxation pursuant to § 47-1005.02."

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary addition of (25), see § 104 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary addition of (25), see § 104 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes.

Application of Law 19-210. Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 47-903. Imposition of tax; rate; returns; liability for tax.

(a)(1) There is imposed on the transferor for each transfer at the time the deed is submitted to the Mayor for recordation a tax at the rate of 1.1% of the consideration paid for the transfer; provided, that:

(A) If the interest in real property transferred is a lease or ground rent for a term (including renewals) that is at least 30 years, the transfer tax will be computed using the value determined in accordance with paragraphs (2) or (3) of this subsection; and

(B) If there is no consideration for a transfer or the consideration is nominal, the rate shall be applied to the fair market value of the real property covered by the interest transferred as determined by the Mayor.

(2) If there is a lease or ground rent for a term (including renewals) that is at least 30 years, the transfer tax shall be based upon the average annual rent over the term of the lease, including renewals, capitalized at a rate of 10%, plus any additional actual consideration payable; provided, that the amount to which the rate is applied shall not exceed the fair market value of the real property covered by the interest transferred.

(3) If the average annual rent of the lease or ground rent for a term (including renewals) that is at least 30 years cannot be determined, the transfer tax will be based on the greater of:

(A) One hundred and five percent of the minimum average annual rent ascertainable from the terms of the lease, capitalized at a rate of 10%, plus any additional consideration payable; or

(B) One hundred and fifty percent of the assessed value of the property covered by the interest transferred.

(a-1) Repealed.

(a-2) Repealed.

(a-3) Repealed.

(a-4) Beginning October 1, 2006, except for residential properties transferred for a consideration less than $400,000, an additional tax of .35% is

imposed upon a deed that is subject to the tax under subsection (a)(1) or (3) of this section. Of the funds collected under this subsection, 15% shall be Deposited in § 42-2802 and the remainder shall be deposited in the General Fund of the District of Columbia.

(a-5) In addition to the additional tax under subsection (a-4) of this section, for deeds recorded on or after June 1, 2009, an additional tax of 5% is imposed on a deed that is subject to the tax under subsection (a) of this section and that transfers an interest in real property upon which is located a retail service station, as defined in § 36-301.01(15), where the retail service station had, or should have had a business license or endorsement to operate a retail service station within 6 months before the date the deed was timely recorded. The tax collected under this subsection shall be deposited in the General Fund of the District of Columbia.

(b)(1) Each such deed shall be accompanied by a return in such form as the Mayor may prescribe, executed by all parties to the deed, setting forth the consideration for the deed or debt secured by the deed, and such other information as the Mayor may require.

(2) The return shall be an integral part of the deed when prescribed and as required by regulation.

(3) The return shall not be confidential or subject to the provisions of §§ 47-1805.04 and 47-4406, unless otherwise provided by regulation.

(c) The transferor in a transfer shall have responsibility for payment of the taxes imposed by this section; provided, however, that if the transferor should fail to make payment the transferee shall be jointly and severally liable with the transferor for payment of said taxes. Notwithstanding the foregoing, the United States or the District governments shall not be jointly and severally liable with the transferor.

(d) The deed and accompanying return shall be due as prescribed in § 47-1431(a) for the recordation of a deed; provided, that if the deed and return are submitted to the Recorder of Deeds before the due date, the return shall be due and taxes shall be due and owing at the time of submission.

(e) Notwithstanding any other provision of this title, the denial of an exemption applied for under authority of § 47-902 shall be subject to the same notice and appeal provisions and procedures as set forth under § 47-1009 relating to the denial of a real property tax exemption applied for under authority of § 47-1002.

(Sept. 13, 1980, D.C. Law 3-92, § 403, 27 DCR 3390; July 26, 1989, D.C. Law 8-17, § 9, 36 DCR 4160; Apr. 9, 1997, D.C. Law 11-198, § 102, 43 DCR 4569; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271; June 9, 2001, D.C. Law 13-305, § 505(c), 48 DCR 334; Oct. 26, 2001, D.C. Law 14-42, § 10(e), 48 DCR 7612; Apr. 4, 2003, D.C. Law 14-282, § 11(p), 50 DCR 896; June 5, 2003, D.C. Law 14-307, § 1103, 49 DCR 11664; Mar. 13, 2004, D.C. Law 15-105, §§ 26(c)(4), 82, 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 1233(b), 51 DCR 8441; June 8, 2006, D.C. Law 16-123, § 161(b), 53 DCR 2843; Mar. 2, 2007, D.C. Law 16-192, §§ 1132(b), 2054, 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 2003(b), 55 DCR 7598;

Mar. 25, 2009, D.C. Law 17-353, § 135, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 1241, 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 114(b), 59 DCR 6190.)

Section references. — This section is referenced in § 42-202, § 42-2802, § 42-2812.01, § 47-864, § 47-895.32, § 47-1081, § 47-1085, § 47-1088, § 47-4406, § 47-4603, § 47-4605, § 47-4607, § 47-4608, § 47-4609, § 47-4614, § 47-4620, § 47-4634, § 47-4639, § 47-4646, and § 47-4651.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (a-5).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 10. PROPERTY EXEMPT FROM TAXATION.

§ 47-1005.02. Nonprofit affordable housing developer tax relief.

(a)(1) Property providing housing to households with 30% area median income or very low-income, as defined by the U.S. Department of Housing and Urban Development for households in the District of Columbia, ("affordable housing") that is owned by an organization that is not organized or operated for private gain, or that is owned by an entity controlled, directly or indirectly, by such an organization, shall be exempt from the tax imposed by Chapter 8 of this title and from a payment in lieu of tax imposed under § 47-1002(20) during the time that the real property continues to be used for affordable housing and is under applicable use restrictions during a federal low-income housing tax credit compliance period, including any extended use period, or similar federal or local program compliance period governing income and use restrictions.

(2) The conveyance of a property to an owner for which a certification as to both the property and owner has been made pursuant to subsection (b)(1) of this section (and that has not been revoked under subsection (b)(2) of this section) shall be exempt from the tax imposed by Chapter 11 of Title 42, and the transfer of any of property by an owner for which a certification as to both the property and owner has been made pursuant to subsection (b)(1) of this section (and that has not been revoked under subsection (b)(2) of this section) shall be exempt from the tax imposed by Chapter 9 of Title 47. Unless waived

by regulation, a copy of the certification shall accompany the deed at the time it is submitted for recordation in order to claim an exemption.

(b)(1) The Mayor shall certify to the Office of Tax and Revenue ("OTR") each owner and property eligible for an exemption. The certification shall identify:

(A) The property to which the certification applies by square and lot, or parcel or reservation number;

(B) The full legal name of the owner, including taxpayer identification number, that is eligible;

(C) The tax or taxes to which the certification applies;

(D) The portion of the property that is eligible;

(E) The effective date of the exemption, which shall be the date on which the organization acquired the parcel, or October 1, 2012, whichever is later; and

(F) Any other information OTR shall require to administer the exemption.

(2) The Mayor shall notify OTR if any owner or property certified as eligible under paragraph (1) of this subsection becomes ineligible for the exemptions under subsection (a) of this section. The notification shall identify:

(A) The property to which the notice applies by square and lot or parcel or reservation number;

(B) The full legal name of the owner, including taxpayer identification number;

(C) The tax or taxes to which the notice applies;

(D) The portion of the property ineligible;

(E) The date on which the taxpayer or property became ineligible; and

(F) Any other information OTR shall require to administer the termination of the exemption.

(3) OTR shall administer the exemption provided under this section in the same manner as the exemptions provided under § 47-1002, and properties exempted under subsection (a) of this section shall be subject to §§ 47-1005, 47-1007, and 47-1009, except that an owner shall not be required to file an application with OTR to qualify for an exemption.

(c) The grant of a tax exemption as provided in this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to either the real property or its owner.

(d) This section shall apply for real property tax years beginning after September 30, 2012.

(Sept. 20, 2012, D.C. Law 19-168, § 7132(b), 59 DCR 8025.)

Section references. — This section is referenced in § 42-1102.

Temporary Amendment of Section. — Section 102 of D.C. Law 19-226 amended subsection (a)(1) of this section to read as follows:

"(a)(1) Property eligible for the low-income housing tax credit provided by section 42 of the Internal Revenue Code, ('affordable housing') that is owned by an organization that is not organized or operated for private gain, or that is owned by an entity controlled, directly or indirectly, by such an organization, shall be exempt from the tax imposed by Chapter 8 of this title and from a payment in lieu of tax imposed under § 47-1002(20) during the time that the real property is being developed for or being used as affordable housing and is subject to restrictive covenants governing income dur-

ing the federal low-income housing tax credit compliance period, including any extended use period."

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of (a)(1), see § 102 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary amendment of (a)(1), see § 102 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 47-1078. SOME, Inc.

(a)(1) The real properties listed in paragraph (2) of this subsection and owned by SOME, Inc., Affordable Housing Opportunities, Inc., or by an entity controlled, directly or indirectly, by SOME, Inc., or Affordable Housing Opportunities, Inc., shall be exempt from real property taxation, effective as of the dates stated in paragraph (2) of this subsection, so long as:

(A) The real property continues to be used in accordance with the application for property tax exemption filed for that particular property;

(B) The owner continues to be SOME, Inc., or Affordable Housing Opportunities, Inc., or an entity controlled, directly or indirectly, by SOME, Inc., or Affordable Housing Opportunities, Inc.; or

(C)(i) The owner is any entity, for-profit or nonprofit; and

(ii) The real property continues to be under applicable use restrictions during a:

(I) Federal low-income housing tax credit compliance period; or

(II) Department of Housing and Community Development compliance period.

(2) The following real properties shall be exempt from real property taxation in accordance with paragraph (1) of this subsection:

(A) Lot 811, Square 3567, located at 1876 4th Street, N.E., effective August 1, 2006;

(B) Lot 812, Square 3567, located at 1876 4th Street, N.E., effective August 1, 2006;

(C) Lot 33, Square 5322, located at 360 50th Street, S.E., effective June 1, 2007;

(D) Lot 34, Square 5322, located at 350 50th Street, S.E., effective June 1, 2007;

(E) Parcel 2180096, Square 5616, located at 1701 19th Street, S.E., effective April 1, 2006;

(F) Lot 815, Square 5637, located at 2810-2872 Texas Avenue, S.E., effective June 1, 2007;

(G) Lot 47, Square 5760, located at 2125 18th Street, S.E., effective July 1, 2005;

(H) Lot 894, Square 5765, located at 1667 Good Hope Road, S.E., effective January 1, 2007;

(I) Lot 811, Square 6129, located at 3828—3830 South Capitol Street, S. E., effective June 1, 2007;

(J) Lot 822, Square 6164, located at 740 Barnaby Street, S.E., effective March 1, 2007; and

(K) Lots 2086—2127, Square 6164, located at 730—736 Chesapeake Street, S.E., effective November 1, 2007.

(b) The properties contained in this section shall make the annual reports required by § 47-1007.

(c) The conveyance of any of the properties described in subsection (a) of this section to SOME, Inc., Affordable Housing Opportunities, Inc. or an entity controlled, directly or indirectly, by either of them shall be exempt from the tax imposed by Chapter 11 of Title 42, and the transfer of any of the properties described in subsection (a) of this section by SOME, Inc., Affordable Housing Opportunities, Inc., or an entity controlled, directly or indirectly, by either of them shall be exempt from the tax imposed by Chapter 9 of this title.

(July 18, 2008, D.C. Law 17-185, § 2(b), 55 DCR 6104; Aug. 6, 2010, D.C. Law 18-212, § 2(b), 57 DCR 4953; Sept. 14, 2011, D.C. Law 19-21, § 7092(a), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(d), 59 DCR 6190.)

Section references. — This section is referenced in § 47-1084.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "this title" for "Title 47 of this District of Columbia Code" in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1081. KIPP DC — Douglass Property; Lot 950, Square 5872.

(a) The real property located at 2600-2620 Douglas Road, S.E., and described as Lot 950, Square 5872, shall be exempt from real property taxation, including possessory interests, so long as the real property continues to be owned, or occupied under a ground lease, by KIPP DC or KIPP DC — Douglass QALICB, Inc.

(b) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section, including an assignment of leasehold interest in the real property or a sublease of the real property, between KIPP DC and KIPP DC Douglass QALICB, Inc., shall be exempt from the tax imposed by § 42-1103 and § 47-903.

(Oct. 22, 2009, D.C. Law 18-69, § 2(b), 56 DCR 6615; Sept. 26, 2012, D.C. Law 19-171, § 116, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376

and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1083. Building Bridges Across the River, Inc., Lots 2 and 6, Square 5894.

The real property located at 3315 and 3321 23rd Street, S.E., Lots 2 and 6, Square 5894, owned by Building Bridges Across the River, Inc., a nonprofit corporation, shall be exempt from all taxation so long as the real property continues to be owned by Building Bridges Across the River, Inc., and is used as a community playground.

(Mar. 3, 2010, D.C. Law 18-111, § 7141(b), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 117, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1084. Affordable Housing Opportunities, Inc. residential rental project; Lot 800, Square 5984, and Lot 916, Square 5730.

(a) The real properties described as Lot 800, Square 5984, and Lot 916, Square 5730, owned by Affordable Housing Opportunities, Inc., or by an entity controlled, directly or indirectly, by Affordable Housing Opportunities, Inc., shall be exempt from real property taxation so long as the real properties continue to be owned by Affordable Housing Opportunities, Inc., or by an entity controlled, directly or indirectly, by Affordable Housing Opportunities, Inc., or continue to be under applicable use restrictions during a federal low-income housing tax credit compliance period, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

(b) The conveyance of any of the properties described in subsection (a) of this section to Affordable housing [Housing] Opportunities, Inc. or an entity controlled, directly or indirectly, by it shall be exempt from the tax imposed by Chapter 11 of Title 42 of the District of Columbia Official Code, and the transfer of any of the properties described in subsection (a) of this section by Affordable Housing Opportunities, Inc., or an entity controlled, directly or indirectly, by it shall be exempt from the tax imposed by Chapter 9 of this title.

(c) All recordation and transfer taxes, interest, penalties, fees, and other related charges assessed against Affordable Housing Opportunities, Inc., or SOME, Inc. or an entity controlled, directly or indirectly, by Affordable Housing Opportunities, Inc. or SOME, Inc. with respect to real property located at Lot 800, Square 5984, or Lot 916, Square 5730, or any of the properties described in § 47-1078(a)(2), for any conveyance or transfer prior to

[September 14, 2011], shall be forgiven, and any payments already made shall be refunded.

(Mar. 23, 2010, D.C. Law 18-129, § 2(b), 57 DCR 1189; Sept. 14, 2011, D.C. Law 19-21, § 7092(b), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(e), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "this title" for "Title 47 of this District of Columbia Code" in (b); and substituted "the effective date of the SOME, Inc. and Affiliates Transfer and Recordation Exemption and Equitable Tax Relief Act of 2011, effective September 14, 2011 (D.C. Law 19-21; 58 DCR 6226)" for "the effective date of this subtitle" in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1086. United House of Prayer for All People — kitchen or feeding facilities.

Emergency legislation. — For temporary (90 day) repeal of section 3 of D.C. Law 19-51, see § 7002 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-51, see § 7002 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary addition of (c), see § 2 of the Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption Clarification Congressional Review Emergency Act of 2012 (D.C. Act 19-603, January 14, 2013, 60 DCR 1043).

Editor's notes.

Section 3 of D.C. Law 19-51 provided that the act shall apply as of March 1, 2011, upon the inclusion of its fiscal effect in an approved budget and financial plan. According to the Office of the Budget Director, as of Feb. 15, 2012, D.C. Law 19-51 had not been funded. D.C. Law 19-51, § 3, was repealed by D.C. Law 19-168, § 7002.

§ 47-1087. Hill Center at the Old Naval Hospital; Lot 5, Square 948.

(a)(1)(A) The real property, described as Lot 5, in Square 948 (commonly known as Hill Center), and any successor lots or any assessment and taxation lots created within Lot 5, ("property") shall be exempt for 5 years from real property, recordation, and transfer taxation imposed under this title, so long as the real property continues to be leased by the Old Naval Hospital Foundation ("ONHF") under and according to the terms of the lease between the District of Columbia and ONHF, dated December 12, 2010, ("2010 lease") and any holder of a possessory interest in the property shall be exempt from possessory interest taxation imposed under § 47-1005.01 for the length of the 2010 lease, notwithstanding any sublease, license, assignment, or other conveyance of the right to use the property from ONHF to any sub-lessee, licensee, assignee, or other conveyee ("receiving entity"); provided, that the receiving entity uses the property pursuant to, and in conformance with, the use provisions of the 2010 lease and subject to the provisions of §§ 47-1007 and 47-1009; provided further, that both the special exemptions from real property tax and the

possessory interest tax under this section shall expire upon the expiration of the extension described in paragraph (2) of this subsection.

(B) Upon the expiration of the extension, the property, ONHF, and the possessory interest of a receiving entity that could not qualify for a real property tax exemption under § 47-1002 were it the owner of the property shall be subject, as applicable, to § 47-1005, and ONHF, additionally, shall be subject to §§ 47-1007 and 47-1009.

(2) Notwithstanding the 5-year exemption granted in paragraph (1) of this subsection, ONHF shall be given an extension of up to 12 months; provided, that ONHF has applied for its categorical exemption from real property taxation under § 47-1002 no later than 6 weeks after the exhaustion of the tax relief under the Federal Historic Preservation Tax Credit Program.

(b) The lease, sublease, license, assignment, or other conveyance of any interest for any use of the property described in subsection (a) of this section that is not prohibited by the 2010 lease shall be exempt from recordation and transfer taxation during the period of the 5-year exemption and any extension.

(Mar. 14, 2012, D.C. Law 19-116, § 2(b), 59 DCR 467; Sept. 26, 2012, D.C. Law 19-171, § 113, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1088. Meridian Public Charter School — Harrison Campus Property; Lot 814, Square 235.

(a) The real property located at 2120 13th Street, N.W., Washington, D.C., and described as Lot 814, Square 235, shall be exempt from real property taxation and possessory interest taxation so long as the real property continues to be owned or occupied under a ground lease by Meridian Public Charter School or Meridian-Harrison QALICB, Inc.

(b) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section, including an assignment of leasehold interest in the real property or a sublease of the real property between Meridian Public Charter School and Meridian-Harrison QALICB, Inc., or a deed of trust with respect to the real property granted by Meridian Public Charter School or Meridian-Harrison QALICB, Inc., to a third party lender, shall be exempt from the tax imposed by § 42-1103 and § 47-903.

(Dec. 11, 2012, D.C. Law 19-196, § 2(b), 59 DCR 12079.)

Emergency legislation. — For temporary (90 day) addition of section, see § 2(b) of Meridian Public Charter School—Harrison Campus Property Tax Exemption Emergency Amendment Act of 2011 (D.C. Act 19-168, October 11, 2011, 58 DCR 8903).

For temporary addition of section, see § 2 of the Meridian Public Charter School-Harrison Campus Property Tax Exemption Emergency Act of 2012 (D.C. Act 19-415, July 25, 2012, 59 DCR 9351), applicable as of July 26, 2012.

For temporary addition of section, see § 2 of

the Meridian Public Charter School-Harrison Campus Property Tax Exemption Congressional Review Emergency Act of 2012 (D.C. Act 19-500, October 26, 2012, 59 DCR 12753), applicable as of October 24, 2012.

For temporary addition of a section designated as § 47-1089, concerning the Washington Latin Public Charter School property, see § 2 of the Washington Latin Public Charter School Campus Property Tax Exemption Emergency Act of 2012 (D.C. Act 19-595, January 12, 2013, 60 DCR 997).

Legislative history of Law Law 19-196. — Law 19-196, the "Jobs for D.C. Residents Amendment Act of 2007", was introduced in Council and assigned Bill No. 19-577. The Bill was adopted on first and second readings on July 7, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 4, 2012, it was assigned Act No. 19-467 and transmitted to Congress for its review. D.C. Law 19-196 became effective on Dec. 11, 2012.

Editor's notes. — Section 3 of D.C. Law 19-196 provided that the act shall apply as of September 20, 2011.

CHAPTER 12D. STEVIE SELLOWS QUALITY IMPROVEMENT FUND; ICF-IDD ASSESSMENT.

Sec.
47-1270. Definitions.
47-1271. ICF-IDD Quality Improvement Fund.
47-1272. Qualified Facility; eligibility; inspection by the MAA; fund recovery; adverse action prohibition.
47-1273. Assessments on ICF-IDDs.
47-1274. Interest and penalties.
47-1275. Confidentiality; audit; determination of assessment.
47-1276. Appeals.
47-1277. Rules.
47-1278. Federal determinations; suspension and termination of assessment.

§ 47-1270. Definitions.

For the purposes of this chapter, the term:

(1) "Fund" means the Stevie Sellows Quality Improvement Fund established by this chapter.

(2) "Gross revenue" means the sum of revenue for provisions of services to consumers with developmental disabilities. For purposes of this chapter, gross revenues does not include charitable contributions or interest income.

(3) "Intermediate care facility for persons with intellectual or developmental disabilities" and "ICF-IDD" have the same meaning as under 42 U.S.C. 1396d(d), but do not include a facility operated by the federal government.

(4) "Medicaid" means the medical assistance programs authorized by title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.), and by [§ 1-307.02], and administered by the Department of Health.

(5) "Quality of care improvements" means improving the quality of care for consumers with developmental disabilities by efforts to reduce turnover and increase the qualifications of the employees, excluding managers, administrators, and contract employees, such as an increase in salaries or benefits, or an increase in training and educational opportunities.

(6) "Resident" means a person receiving services in an ICF-IDD.

(7) "Reimbursement methodology" means the prospective Medicaid payment rate system for intermediate care facilities for persons with intellectual disabilities.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(3), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1272.

Effect of amendments. — The 2012 amendment by 19-169, rewrote (3); substituted "ICF-IDD" for "ICF-MR" in (6); and substituted "persons with intellectual disabilities" for "the mentally retarded" in (7).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes.

Section 33(b)(1) of D.C. Law 19-169 substituted "ICF-IDD Assessment" for "ICF-MR Assessment" in the chapter heading.

Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1271. ICF-IDD Quality Improvement Fund.

(a) There is established a fund designated as the Stevie Sellows Quality Improvement Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia and shall be used for the purposes set forth in subsection (b) of this section. All assessments collected under this chapter, any and all interest earned on those assessments, and any and all interest and penalties collected under § 47-1274, shall be deposited into the Fund, and shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section, subject to authorization by Congress.

(b) The Fund shall be used to:

(1) Fund quality of care improvements for those facilities who meet the requirements of § 47-1272 of up to $2.50 per hour, or a higher amount as determined through rulemaking; and

(2) Cover administrative costs of the Department of Health Care Finance ("DHCF") in administering the Fund, which these costs shall not be more than 5% of the Fund's total revenues for a fiscal year.

(c) Notwithstanding subsection (b) of this section, of the revenues deposited in the Fund in fiscal year 2011, at least $1 million shall be used to support quality of care improvements for those facilities that meet the requirements of § 47-1272, and up to $3.7 million may be used to support Medicaid services in the District of Columbia, including reimbursements for ICF-IDDs for the services that they provide.

(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the Fund for a fiscal year.

(e) The Mayor shall audit all income and expenses of the Fund annually and provide the annual report to the Council.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 24, 2010, D.C. Law

18-223, § 5032(a), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(4), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1273.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" in the section heading; and substituted "ICF-IDDs" for "ICF-MRs" in (c).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1272. Qualified Facility; eligibility; inspection by the MAA; fund recovery; adverse action prohibition.

(a) To be eligible to receive payments from the Fund for a fiscal year, an ICF-IDD shall submit the following to the DHCF by June 30 of the prior fiscal year:

(1) Proof of a legally binding written commitment to fund quality of care improvements as defined in § 47-1270;

(2) Proof of an enforcement mechanism of the written commitment to fund quality of care improvements, such as arbitration, that is:

(A) Expeditious;

(B) Uses a neutral decision maker;

(C) Economical for the employees; and

(D) Available to the employees or their representatives; and

(3) Proof that the facility has provided written notice of the terms of the commitment and the availability of the enforcement mechanism to the relevant employees or their recognized representatives.

(b) The DHCF shall terminate the quality improvement funding for a facility if it finds the binding written commitment has expired and does not otherwise remain enforceable.

(c) The DHCF may inspect relevant payroll and personnel records of facilities receiving funds pursuant to this section to ensure that the quality of care improvements provided for in this section have been implemented.

(d) In addition to the remedies provided in § 47-1274, the DHCF may retroactively recover funds provided to a facility for quality of care improvements incurred after expiration of the commitment or if a facility has failed to maintain the commitment.

(e) Enforcement or attempted enforcement of the written commitment pursuant to § 47-1272 shall not constitute a basis for adverse action by a facility against an employee.

(f) Documents submitted by the ICF-IDD to show its compliance with § 47-1272 shall be available for public review.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 24, 2010, D.C. Law 18-223, § 5032(b), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(5), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1271.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" in the introductory language of (a) and in (f).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1273. Assessments on ICF-IDDs.

(a) Except as provided in § 47-1278(d), each ICF-IDD in the District of Columbia shall pay an assessment of 5.5% per annum of gross revenue.

(b) The Mayor shall provide notice to each ICF-IDD of the amount of the assessment for the ensuing fiscal year no later than September 1.

(c) Each ICF-IDD shall pay the assessment required by subsection (a) of this section in quarterly installments.

(d) Each ICF-IDD shall report gross resident revenue for the period upon which the assessment for a fiscal year is to be determined by submitting an audited financial statement and other information for that period as the Mayor may prescribe by rules issued pursuant to § 47-1277.

(e) If the total amount of the assessments to be collected for a fiscal year is inadequate to cover disbursements required under § 47-1271(b), the Mayor may raise the assessment up to the maximum allowed under federal law.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 24, 2010, D.C. Law 18-223, § 5032(c), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(6), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1276 and § 47-1278.

Effect of amendments.

The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDDs" for "ICF-MRs" in the section heading; and substituted "ICF-IDD" for "ICF-MR" in (a) through (d).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1274. Interest and penalties.

(a)(1) If an ICF-IDD fails to pay the full amount of an assessment by the date required by this chapter, or by rules issued pursuant to § 47-1277, the unpaid balance shall accrue interest at the rate of 1.5% per month or any fraction thereof which shall be added to the unpaid balance.

(2) The Chief Financial Officer of the District of Columbia may arrange a payment plan for the amount of the assessment and interest in arrears.

(b) If an ICF-IDD fails to file a report required under this chapter, or by rules issued pursuant to § 47-1277, it shall be subject to an administrative penalty equal to 5% of the monthly assessment for each month, or any fraction thereof, that the failure to file continues; except, that the total administrative penalty shall not exceed 25% of the ICF-IDD's annual assessment.

(c)(1) If an ICF-IDD that knowingly provides false information in a report required by this chapter, or by rules issued pursuant to § 47-1277, it shall be subject to a penalty of up to $10,000.

(2) Any action brought to enforce this subsection shall be brought in the

Superior Court of the District of Columbia by the Attorney General for the District of Columbia in the name of the District of Columbia.

(d) The District of Columbia shall have:

(1) A lien upon the real and personal property located in the District of Columbia of the ICF-IDD for any assessments, interest, or administrative penalties that are due under this chapter, or rules issued pursuant to § 47-1277; and

(2) The priority of a secured creditor.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(7), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1271, § 47-1272, and § 47-1276.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" wherever it appears in the section; and substituted "ICF-IDD's" for "ICF-MR's" in (b).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1275. Confidentiality; audit; determination of assessment.

(a) Unless otherwise provided by law or necessary to carry out the provisions of this chapter, proprietary information submitted by an ICF-IDD under this chapter is confidential and shall not be disclosed.

(b) The Mayor may audit the information required to be reported by an ICF-IDD under this chapter, or any rules issued pursuant to § 47-1277, and may use the audited information to determine, or redetermine, the amount of an assessment due under this chapter.

(c)(1) The Mayor may summon any person to appear to give testimony or answer interrogatories, or to produce books, records, or other information relating to matters subject to an audit.

(2) The summons shall be served by a member of the Metropolitan Police Department or by registered mail or certified mail addressed to the person at the last known dwelling place or principal place of business.

(3) A verified return by the person serving the summons, or, in the case of service by registered or certified mail, the return post office receipt signed by the person served shall be proof of service.

(d) The Mayor may report a person who, having been served pursuant to subsection (c) of this section, neglects or refuses to obey the summons, to the Superior Court of the District of Columbia. The Superior Court may compel obedience to the summons to the same extent as witnesses may be compelled to obey subpoenas of the Superior Court.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(8), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1276.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" in (a) and (b).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1276. Appeals.

(a) An ICF-IDD may contest the amount of an assessment, including any interest or administrative penalties, imposed under this chapter, or by rules issued pursuant to § 47-1277, by filing a notice of appeal with the Office of Administrative Hearings within 60 days after the date of the notice of:

(1) An annual assessment under § 47-1273;

(2) A determination or redetermination of an assessment based on an audit of information under § 47-1275; or

(3) An imposition of interest or administrative penalties under § 47-1274.

(b) The Office of Administrative Hearings shall conduct a hearing on the appeal filed under subsection (a) of this section subject to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; § 2-501 et seq.), and pursuant to the rules of the Office of Administrative Hearings.

(c) Before filing an appeal pursuant to subsection (a) of this section, the ICF-IDD shall pay the assessment, together with any administrative penalties and interest due on the assessment. In no case shall the filing of a notice of appeal act as a stay on the payment of the assessment, interest, or administrative penalties.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(9), 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" in the introductory language of (a) and in (c).

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1277. Rules.

The Mayor, in consultation with the Department of Health and ICF-IDD and employee representatives, shall issue rules to implement the provisions of this chapter.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(10), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1273, § 47-1274, § 47-1275, § 47-1276, and § 47-1278.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR."

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 47-1278. Federal determinations; suspension and termination of assessment.

(a) If the federal government determines that an assessment imposed on an ICF-IDD pursuant to this chapter does not satisfy the requirements for federal financial participation set forth in section 1903(w) of the Social Security Act, approved July 30, 1965 (70 Stat. 349; 42 U.S.C. § 1396b(w)), monies collected pursuant to the assessment shall be refunded and the assessment shall be null and void.

(b)(1) An [sic] determination adverse to the District under subsection (a) of this section with respect to an assessment imposed on one or more, but not all ICF-IDDs pursuant to this chapter shall not affect the validity, amount, applicable rate, or any other terms of an assessment on other facilities imposed by this chapter.

(2) An adverse determination with respect to all assessments imposed by this chapter shall be governed by subsection (a) of this section.

(c) Notwithstanding any other provision of this chapter, if the federal government determines that any exclusions from ICF-IDDs specified under this chapter would prevent an assessment imposed by this chapter from qualifying as a broad-based health care related tax, as that term is defined in section 1903(w)(3)(B) of the Social Security Act, approved July 30, 1965 (79 Stat. 349; 42 U.S.C. § 1396b(w)(3)(B)), the exclusions shall not be made.

(d) The assessment imposed under § 47-1273 shall not be due at the time required by this chapter, or by rules issued pursuant to § 47-1277, if the Department of Health suspends or postpones regular Medicaid payment to ICF-IDDs beyond the regular monthly payment cycle, but shall be due when the regular monthly payment cycle resumes.

(e) The assessment imposed under § 47-1273 shall be null and void if either of the following occurs:

(1) The rate methodology for ICF-IDDs is altered or amended such that the overall average Medicaid per diem rate for ICF-IDDs is decreased or on, an overall average per diem basis, the altered or amended rates are less than they would have been if the reimbursement methodology had not been changed; or

(2) Following fiscal year 2006, general funding levels for Medicaid rates for ICF-IDDs fall below the fiscal year 2006 level of funding, on a per-Medicaid-resident, per-day basis.

(Mar. 8, 2006, D.C. Law 16-68, § 2(b), 53 DCR 47; Sept. 26, 2012, D.C. Law 19-169, § 33(b)(11), 59 DCR 5567.)

Section references. — This section is referenced in § 47-1273.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "ICF-IDD" for "ICF-MR" in (a); and substituted "ICF-IDDs" for "ICF-MRs" wherever it appears in the section.

Legislative history of Law 19-169. — See note to § 47-1270.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

Chapter 13. Real Property Tax Sales.

§ 47-1303.04. Real property tax assignment; sale and transfers.

(a) The District may assign or sell and transfer, for consideration, to a third party, tax liens bid off in the name of the District pursuant to § 47-1301 or tax liens that remain unsatisfied for six months or more. The tax liens may be assigned or sold and transferred in any manner the Mayor deems appropriate, including, but not limited to, individually, in bulk, or to a person who issues debt secured by the tax liens. Such transactions shall not be subject to the provisions of Chapter 3A of Title 2 [§ 2-351.01 et seq.]. The District may make the assignment or conduct a sale and transfer of its tax liens either by public auction, sealed bid, or pursuant to a negotiated contract.

(b) The District's tax liens may be purchased by any person, including, but not limited to, a trust created and established solely for the purpose of purchasing tax liens from the District, and which issues debt securities secured by the liens. The Mayor is authorized to accept as payment for the assignment or sale and transfer of the tax liens cash, notes, or any combination thereof, or such other consideration as the Mayor deems appropriate. Any bonds, notes, or other obligations issued by any purchaser, assignee, or transferee of the tax liens shall not constitute obligations of the District and shall be without recourse to the District.

(c) Notwithstanding any other provision of law, whenever the Mayor determines that it is in the District's best interest, the District may assign or sell and transfer its tax liens to any person, except the delinquent owner of the property subject to the tax lien, or a person related to the owner, in an amount less than the total amount of unpaid taxes, penalties and accrued interest. The execution of a purchase agreement or other agreement by the Mayor shall be conclusive evidence of the adequacy of consideration for the assignment or sale and transfer of the tax liens.

(d) The assignment or sale and transfer of any tax liens and the right to receive amounts in respect thereof as provided by law shall be evidenced by a notarized certificate of the Director of the Department of Finance and Revenue or his or her duly authorized representative, which shall recite the full amount of such lien, including penalties, interest, and costs accrued as of the date of the assignment or sale and transfer of such tax lien, and naming the purchaser of the lien, the record owner, and the square, lot, and street address of the related real property. The certificate of the assignment or sale and transfer shall be recorded in the Office of the Recorder of Deeds.

(e) The transferee of a tax lien and any assignee or successor in interest of such transferee shall have and possess the same rights, powers, lien status, and priority of payment at law or in equity as the District would have possessed if the lien had not been assigned or sold and transferred. The

transferee or assignee shall have the same rights to enforce all such tax liens as the District, including the issuance of a deed in fee simple absolute by the Superior Court of the District of Columbia.

(f)(1) Notice by registered or certified mail must be sent to the record owner and all other lienholders of record by the District at least 30 days in advance of expiration of the redemption period.

(2) Suits to contest the validity of the deed issued pursuant to this section may not be instituted and are forever barred if not filed within 90 days of recordation of the deed in the Office of the Recorder of Deeds.

(3) Both the public notice pursuant to § 47-1301 and the notice of the expiration of the redemption period shall include a statement that suits to contest the validity of the deed must be filed within 90 days of recordation of such deed in the Office of the Recorder of Deeds.

(4) Upon the expiration of the 90-day period from the date of recordation of the deed, the validity of the deed, any other agreements relating thereto, and all proceedings in connection therewith shall be conclusively presumed to have been legally taken and no court shall have the authority to inquire into such matters.

(g) Payments received for delinquent taxes shall be applied first to the penalties, accrued interest, and real property tax in that order related to the longest standing delinquency, and then to the penalties, accrued interest, and real property tax in that order due on the next longest standing delinquency, and subsequent delinquencies.

(h)(1) In an action to foreclose on a tax certificate or certificates, the court may award counsel fees in any in rem or in personam proceeding except for special cause shown by affidavit. If the plaintiff is other than the District, no counsel fees shall be allowed unless, prior to the filing of the complaint, the plaintiff shall have given not more than 120 nor less than 30 days written notice to the interested owners or mortgagees whose interests appear of record, by registered or certified mail with postage prepaid thereon addressed to their last known addresses, of intention to file such complaint. The notice shall also contain the amount due on the tax lien as of the day of the notice. After the complaint has been filed, all redemptions shall be subject to the fixing of fees and costs.

(2) In an action for the foreclosure on a tax certificate, the court or the clerk may, as a matter of discretion, tax as a part of the taxable costs all legal fees and reasonable charges necessarily paid or incurred in procuring searches relative to the title of the subject premises. In tax foreclosure actions brought to foreclose tax sale certificates on more than one parcel, the fees prescribed shall apply to each separate parcel. The court or the clerk may also authorize inclusion of all legal fees and charges necessarily incurred for searches required for unpaid taxes or municipal liens and for searches required to enable the officer making public sale to insert in the notices, advertisements, and conditions of sale, a description of the estate or interest to be sold and the defects in title and liens or encumbrances thereon, as authorized by law.

(3) In an action for the foreclosure on a tax certificate, notwithstanding §§ 47-1312 through 47-1315 or any other law, the court may order the prevailing

plaintiff to sell the property at private sale for the fair market value of the property to satisfy the amount of the plaintiff's lien, fees, and costs, as provided for in this section, including all fees and charges necessarily incurred to sell the property at private sale. Any surplus resulting from the sale shall be paid as provided in § 47-1315.

(i)(1) The assignee, purchaser or transferee of a tax lien may assign or sell and transfer the liens to any person, except to the delinquent owner of the property subject to the lien, or a person related to the owner. The transferee thereof may subsequently transfer and assign the tax lien to any other person, except to the delinquent owner of the property subject to the tax lien, or a person related to the owner.

(2) Any transfer made pursuant to paragraph (1) of this subsection shall be evidenced by a notarized document executed by the transferor. Such document shall cross-reference the original notarized certificate of assignment or sale and transfer issued by the Department of Finance and Revenue and shall recite the information appearing on such original certificate.

(3) Evidence of any subsequent transfer and assignment shall be recorded in the Office of the Recorder of Deeds.

(j) The assignee, purchaser, or transferee of a tax lien, any successor thereof, shall be subject to applicable tenant protection provisions of § 42-3401.01 et seq. and § 42-3501.01 et seq. or any other applicable District law.

(k) The Mayor may issue rules to implement the provisions of this section.

(l) The powers granted under this section shall be exercised from time to time by that official delegated authority pursuant to § 1-204.24a.

(m) For a period of not more than 6 months following the completion of the transaction, the District shall have the right to substitute a lien of equal value for similar property, where the district has determined that a particular property should be excluded from the tax lien portfolio.

(Feb. 28, 1898, 30 Stat. 250, ch. 32, § 2d, as added Sept. 9, 1996, D.C. Law 11-153, § 3(a), 43 DCR 4380; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 504(h), 48 DCR 334; Sept. 26, 2012, D.C. Law 19-171, § 219(a), 59 DCR 6190.)

Section references. — This section is referenced in § 2-1215.15, § 47-1331, and § 47-1361.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "provisions of Chapter 3A of Title 2" for "provisions of § 2-301.01 et seq." in the third sentence of (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

CHAPTER 15. TAXATION OF PERSONAL PROPERTY.

Subchapter I. General Provisions

Subchapter I. General Provisions.

§ 47-1508. Exemptions.

(a) The following personal property shall be exempt from the tax imposed by this act:

(1) The personal property of any corporation, and any community chest fund or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inure to the benefit of any private shareholder or individual; provided, that (A) the organization shall have first obtained a letter from the Mayor stating that it is entitled to the exemption, and (B) any personal property used for activities that generate unrelated business income subject to tax under section 511 of the Internal Revenue Code of 1986 shall not be exempt.

(2) Works of art owned by a nonresident of the United States, who is not a citizen of the United States, so long as the works of art were lent without charge to the trustees of the National Gallery of Art solely for exhibition without charge to the general public.

(3) Any motor vehicle or trailer registered according to subchapter I of Chapter of Title 50, except that special equipment mounted on a motor vehicle or trailer and not used primarily for the transportation of persons or property shall be taxed as tangible personal property as provided by law.

(3A) The personal property of any company subject to a gross receipts or distribution tax imposed by Chapter 25 or Chapter 39 of this title.

(4) Repealed.

(4A) Repealed.

(5) Repealed.

(6) Repealed.

(7) Beginning on May 1, 1997, the personal property of a wireless telecommunication company, as defined in § 47-3901(12), irrespective of whether the property is used or consumed in furnishing a service the charges from which are subject to Chapter 39 of this title. For purposes of this subparagraph, the term "personal property" shall not include office equipment or office furniture.

(8) The personal property of any digital audio radio satellite service company operating under a digital audio radio service by satellite license granted by the Federal Communications Commission; provided, that such company is subject to a gross receipts tax in force in the District for the period of time or for any portion of the time covered by any return required to be filed by Chapter 15 of this title.

(9)(A) The personal property of a qualified supermarket, as defined in § 47-3801(2), which is a development, as defined in § 47-3801(1), for the first 10 years for which the tax imposed by this chapter would otherwise be due.

(B) The exemption granted by subparagraph (A) of this paragraph shall apply only:

(i) During the time that the real property is used as a supermarket;

(ii) In the case of the development of a qualified supermarket on real property not owned by the supermarket, if the owner of the real property leases

the land or structure to the supermarket at a fair market rent reduced by the amount of the real property tax exemption provided by § 47-1002(23); and

(iii) During the time that the supermarket development is in compliance with the requirements of subchapter X of Chapter 2 of Title 2.

(10)(A) The personal property of a Qualified High Technology Company for the 10 years beginning in the year of purchase.

(B) For the purposes of this paragraph, the term "qualified property" means any personal property, as defined in § 47-1521(4), which is used or held by a Qualified High Technology Company.

(C) This exemption shall apply to qualified property purchased after December 31, 2000.

(11) Systems using exclusively solar energy as defined in § 34-1431(14)); provided, that, notwithstanding any other provision of law, the Chief Financial Officer shall transfer $120,000 from the certified revenues deposited in the Renewable Energy Development Fund established by § 34-1436 to the unrestricted fund balance of the General Fund of the District of Columbia and shall recognize the $120,000 as local funds revenue in fiscal year 2013 and in each subsequent fiscal year.

(12) Beginning October 1, 2016, cogeneration systems, which shall mean systems that produce both:

(A) Electric energy; and

(B) Steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes.

(a-1) Nothing contained within this act, nor any prior act of Congress relating to the District of Columbia, shall be deemed to impose upon any person, firm, association, company, or corporation a tax based upon tangible personal property owned and stored by the person in a public warehouse in the District of Columbia for a period of time no longer than is necessary for the convenience or exigencies of reshipment and transportation to its destination outside the District of Columbia.

(b) The Mayor shall issue rules necessary to carry out the provisions of subsection (a)(3)(A) and (B) [now subsections (a)(4) and (5) (repealed)] of this section in accordance with subchapter I of Chapter 5 of Title 2.

(July 1, 1902, 32 Stat. 620, ch. 1352, § 6, par. 10; Apr. 28, 1904, 33 Stat. 564, ch. 1815; Mar. 4, 1913, 37 Stat. 1006, ch. 150, § 10; Sept. 1, 1950, 64 Stat. 576, ch. 836, § 3; May 18, 1954, 68 Stat. 112, ch. 218, §§ 605, 1001, 1002; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 6; Feb. 28, 1987, D.C. Law 6-212, § 19(a), 34 DCR 850; Oct. 1, 1987, D.C. Law 7-25, § 3, 34 DCR 5068; Sept. 20, 1989, D.C. Law 8-26, § 21, 36 DCR 4723; Sept. 10, 1992, D.C. Law 9-145, § 110(c), 39 DCR 4895; Sept. 26, 1995, D.C. Law 11-52,§ 112, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(a), 45 DCR 1533; Apr. 5, 2000, D.C. Law 13-75, § 2(a), 46 DCR 10425; Apr. 12, 2000, D.C. Law 13-91, § 156(c), 47 DCR 520; July 18, 2000, D.C. Law 13-148, § 2(a), 47 DCR 4636; Oct. 4, 2000, D.C. Law 13-166, 3(b), 47 DCR 5821; Apr. 3, 2001, D.C. Law 13-256, § 401, 48 DCR 730; June 9, 2001, D.C. Law 13-305, § 202(h), 302(a), 48 DCR 334; Oct. 19, 2002, D.C. Law

14-213, § 33(p), 49 DCR 8140; Mar. 19, 2013, D.C. Law 19-252, § 111, 59 DCR 14932.)

Section references. — This section is referenced in § 47-2501, § 47-2501.01, and § 47-3802.

Effect of amendments.

The 2013 amendment by D.C. Law 19-252 added (a)(11) and (a)(12).

Temporary Amendment of Section.

Section 2 of D.C. Law 19-201 added a new paragraph (a)(11) to read as follows:

"(a) The following personal property shall be exempt from the tax imposed by this act:

*****

"(11)(A) Beginning on October 1, 2016, cogeneration equipment that serves developments more than one million square feet where the fuel used to generate electricity is already subject to District tax.

"(B) For the purposes of this paragraph, the term 'cogeneration Equipment' means equipment that produces both electric energy and useful heat or steam energy."

Section 4(b) of D.C. Law 19-201 provided that the act shall expire after 225 days of its having taken effect.

Legislative history of Law 19-252. — Law 19-252, the "Energy Innovation and Savings Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-749. The Bill was adopted on first and second readings on Nov. 1, 2012 and Nov. 15, 2012, respectively. Signed by the Mayor on Dec. 7, 2012, it was assigned Act No. 19-562 and transmitted to Congress for its review. D.C. Law 19-252 became effective on Mar. 19, 2013.

Editor's notes.

Section 301 of D.C. Law 19-252 provided that the Mayor shall issue rules to implement the provisions of the act within 180 days of its effective date [Mar. 19, 2013].

CHAPTER 18. INCOME AND FRANCHISE TAXES.

Subchapter I. Repeal of Prior Income Tax Law and Applicability of Subchapter; General Definitions.

§ 47-1801.04. General definitions.

For the purposes of this chapter, unless otherwise required by the context, the term:

(1) "Affiliated group" means an affiliated group as defined in section 1504 of the Internal Revenue Code of 1986; provided, that the affiliated group shall not include any corporation that does not have gross income derived from sources within the District.

(2) "Aggregated effective tax rate" means the sum of the effective rates of tax imposed by the District of Columbia, states, or possessions of the United States, and foreign nations that have entered into comprehensive tax treaties with the United States government, where a related member receiving a payment of interest expense or intangible expense is subject to tax and where the measure of the tax imposed included the payment.

(3) "Apportioned net operating loss" means the net operating loss generated in the year of the loss multiplied by the District of Columbia's apportionment formula for the loss year.

(4) "Blind" means a taxpayer whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) "Business income" means all income that is apportionable under the Constitution of the United States.

(6)(A) "Capital asset" means property defined or treated as a capital asset under the Internal Revenue Code of 1986.

(B) For the purpose of computing for any taxable year, the tax imposed under this chapter with respect to sales or other dispositions of property referred to in subparagraph (A) of this paragraph, the provisions of the Internal Revenue Code of 1986 relating to the treatment of gains and losses (other than the alternative tax imposed by section 1201 of the Internal Revenue Code of 1986) shall apply.

(7) "Combined group" means the group of all persons whose income and apportionment factors are required to be taken into account pursuant to § 47-1805.02(a)(a) [§ 47-1805.02a(a)] and (b) in determining the taxpayer's share of the net business income or loss apportionable to the District.

(8) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(9) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employee for personal services.

(10) "Corporation" means:

(A) Any entity or organization of any kind treated as a corporation for tax purposes under the laws of the District, wherever located, which, were it doing business in the District, would be subject to the tax imposed by this chapter;

(B) The business conducted by a partnership that is directly or indirectly held by a corporation, which shall be considered the business of the corporation to the extent of the corporation's distributive share of the partnership income, inclusive of guaranteed payments to the extent prescribed by regulation; and

(C) A joint-stock company, trust, and any association or other organization that is taxable as a corporation under federal income tax law.

(11)(A) "Cost-of-living adjustment" means an amount, for any calendar year, equal to the dollar amount set forth in paragraph (44)(A) and (B) or § 47-1806.02(f)(1)(A) and (i) multiplied by the difference between the Consumer Price Index for the preceding calendar year and the Consumer Price Index for the calendar year beginning January 1, 2011, divided by the Consumer Price Index for the calendar year beginning January 1, 2011.

(B) For the purposes of this paragraph, the Consumer Price Index for any calendar year is the average of the Consumer Price Index for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year.

(12) "Deficiency" with respect to any tax imposed by this chapter means:

(A) The amount or amounts by which the tax imposed by this chapter, as determined by the Mayor, exceeds the amount shown as the tax by the taxpayer upon his return; or

(B) The amount assessed as a tax by the Mayor if no return is filed by the taxpayer.

(13) "Dependent" means a dependent as defined in section 152 of the Internal Revenue Code of 1986.

(14) "Dividend" means any distribution made by a corporation or financial institution (domestic or foreign) to its stockholders or members, out of its earnings, profits, or surplus, other than paid-in surplus, whenever earned by the corporation or financial institution and whether made in cash or in any other property (other than stock of the same class in the corporation or financial institution, if the recipient of the stock dividend has neither received nor exercised an option to receive the dividend in cash or in property other than stock instead of stock) and whether distributed prior to, during, upon, or after liquidation or dissolution of the corporation or financial institution; except, that in the case of any such distribution, any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1986 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this chapter; provided, that in the case of any dividend that is distributed other than in cash or stock in the same class in the corporation or financial institution and not exempted from tax under this chapter, the basis of tax to the recipient shall be the market value of the property at the time of the distribution; provided further, that a dividend shall

not include any dividend paid by a mutual life insurance company to its shareholders.

(15) "Doing business" means any activity of a corporation or financial institution that enjoys the benefits and protection of the government and laws of the District.

(16) "Domestic partners" means persons who have registered their relationship with the District pursuant to § 32-702.

(17) "Employer" means an employer as defined in section 3401(d) of the Internal Revenue Code of 1986.

(18) "Employee" means an individual having a place of abode or residing or domiciled within the District at the time the tax is required to be withheld in respect to the individual's employment by another, and to every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether domiciled in the District or not, including an officer of a corporation, but excluding any elective officer of the government of the United States or any officer or employee in the legislative branch of the government of the United States whose compensation is paid by the Secretary of the Senate or Clerk of the House of Representatives, any officer of the executive branch of the government of the United States whose appointment was made by the President of the United States, subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District of Columbia at any time during the taxable year.

(19) "Fiduciary" means a guardian, trustee, executor, committee, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any person.

(20) "Financial institution" means any bank or trust company incorporated or required to be incorporated and doing business under the laws of the United States, the District of Columbia, or any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by the District or by any state, territorial, or federal authority having supervision over financial institution, including:

(A) Any savings and loan associations; and

(B) Any company, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, which is organized or created under the laws of a foreign country and which maintains an office or branch in the District.

(21) "Fiscal year" means an accounting period of 12 months ending on any day other than the last day of December and on the basis of which the taxpayer is required to report for federal income tax purposes.

(22) "Head of household" shall have the same meaning as defined in section 2(b) of the Internal Revenue Code of 1986.

(23) "Individual" means all natural persons (other than fiduciaries), whether married, domestic partners, or unmarried.

(24) "Intangible expense" means:

(A) An expense, loss, or cost for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, to the extent the expense, loss, or cost is allowed as a deduction or cost in determining taxable income for the taxable year under the Internal Revenue Code of 1986;

(B) A loss related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

(C) A royalty, patent, technical, or copyright and licensing fee; or

(D) Any other similar expense or cost.

(25) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, and similar types of intangible assets.

(26) "Interest expense" means an amount directly or indirectly allowed as a deduction under section 163 of the Internal Revenue Code of 1986 for purposes of determining taxable income under the Internal Revenue Code of 1986.

(27) "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, approved April 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), as amended through May 24, 1985.

(28) "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.); which provisions shall apply on the same dates that they are effective for federal tax purposes.

(29) "International banking facility" or "IBF" shall have the same meaning as provided in section 204.8(a)(1) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(1)).

(30) "International banking facility extension of credit" or "IBF loan" shall have the same meaning as provided in section 204.8(a)(3) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(3)).

(31) "International Banking Facility time deposit" or "IBF time deposit" shall have the same meaning as provided in section 204.8(a)(2) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(2)).

(32) "Net operating loss" shall have the same meaning as provided in section 172(c) of the Internal Revenue Code of 1986, subject to limitations and modifications provided in this section.

(33) "Net operating loss deduction" means the aggregate of the apportioned net operating loss carryovers to the taxable year.

(34) "Nonbusiness income" means all income other than business income.

(35) "Nonresident" means every individual other than a resident.

(36) "Ownership" in determining the ownership of stock, assets, or net profits of any person, means the constructive ownership of section 318(a) of the

Internal Revenue Code of 1986 as modified by section 856(d)(5) of the Internal Revenue Code of 1986.

(37) "Partnership" means a general or limited partnership or organization of any kind that is treated as a partnership for tax purposes under the laws of the District of Columbia.

(38) "Payroll period" means a payroll period as defined in section 3401(b) of the Internal Revenue Code of 1986.

(39) "Person" means any individual, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited partnership, association, corporation (whether or not the corporation is, or would be if doing business in the District, subject to this chapter), company, syndicate, estate, trust, business trust, trustee, trustee in bankruptcy, receiver, executor, administrator, assignee, fiduciary, or organization of any kind.

(40) "Related entity" means a person that under the attribution rules of section 318 of the Internal Revenue Code of 1986 is:

(A) A stockholder who is an individual, or a member of the stockholder's family as enumerated in section 318 of the Internal Revenue Code of 1986, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock; or

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code of 1986 ("party related to the corporation"), if the corporation or party related to the corporation owns, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(41) "Related member" means:

(A) A person that, with respect to the taxpayer is, at any time during the year, a related entity;

(B) A component member as defined in section 1563(b) of the Internal Revenue Code of 1986;

(C) A controlled group of which the taxpayer is also a component; or

(D) A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code of 1986.

(42) "Resident" means an individual domiciled in the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not the individual is domiciled in the District, excluding any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the

government of the United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government of the United States whose appointment was made by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District at any time during the taxable year. In determining whether an individual is a resident, an individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

(43) "Sales" means all gross receipts of the taxpayer that are business income, as that term is defined in this section.

(44) "Standard deduction" means:

(A) The amount of $4,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of $50, rounded to the next lowest multiple of $50), in the case of a return filed by a single individual, by a head of household, by a surviving spouse, or jointly by husband and wife (or domestic partner);

(B) The amount of $2,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of $50, rounded to the next lowest multiple of $50), in the case of a married person filing separately; or

(C) In the case of an individual who is a resident, as defined in paragraph (42) of this section, for less than a full 12-month taxable year, the amounts specified in subparagraphs (A) and (B) of this paragraph prorated by the number of months that the individual was a resident.

(45) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory, or possession of the United States and any foreign country or political subdivision thereof.

(46) "Subpart F income" shall have the same meaning as provided in section 952 of the Internal Revenue Code of 1986.

(47) "Surviving spouse" shall have the same meaning as provided in section 2(a) of the Internal Revenue Code of 1986; except, that in applying section 2(a) of the Internal Revenue Code of 1986, the term spouse shall be deemed to include a domestic partner.

(48) "Tax" or "tax liability" includes the liability for all amounts owing by a taxpayer to the District under this chapter.

(49) "Tax haven" means a jurisdiction that:

(A) For a particular tax year in question has no, or nominal, effective tax on the relevant income and has laws or practices that prevent effective exchange of information for tax purposes with other governments regarding taxpayers subject to, or benefitting from, the tax regime;

(B) Lacks transparency, which for the purposes of this definition means that the details of legislative, legal, or administrative provisions are not open to public scrutiny and apparent or are not consistently applied among similarly situated taxpayers;

(C) Facilitates the establishment of foreign-owned entities without the

need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

(D) Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

(E)(i) Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

(ii) For the purposes of this definition, the term "tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to governmental authority.

(50) "Taxable income" means the income of a corporation as defined by the laws of the United States for federal income-tax purposes, adjusted, as provided in this section; provided, that in the case of a corporation having income from business activity that is taxable outside the District, its District taxable income shall be the portion of its taxable income as allocated or apportioned to the District under the provisions of this chapter.

(51) "Taxable year" means the calendar year or the fiscal year, whichever is the basis upon which the net income of the taxpayer is computed under this section; if no fiscal year has been established by the taxpayer, it means the calendar year. The term "taxable year" includes, in the case of a return made for a fractional part of a calendar or fiscal year under the provisions of this section or under regulations prescribed by the Mayor, the period for which the return is made; provided, that no taxpayer shall change from a calendar year to a fiscal year or from a fiscal year to a calendar year within any taxable year without the written authorization of the Mayor.

(52) "Taxpayer" means any person required by this chapter to pay a tax, file a return, or report or apply for a license.

(53) "Trade or business" means the engaging in or carrying on of any trade, business, profession, vocation, or calling, or commercial activity in the District of Columbia, including activities in the District that benefit an affiliated group of the taxpayer, the performance of functions of a public office, and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by the person or through an agent, and whether or not the person or agent performs any services in connection with the property.

(54) "United States" means the United States of America and includes all of the states of the United States, the District of Columbia, and United States territories and possessions.

(55)(A) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts.

(B) For the purposes of this chapter, any business conducted by a partnership shall be treated as conducted by its partners, whether directly held or indirectly held through a series of partnerships, to the extent of the partner's distributive share of the partnership's income, regardless of the percentage of the partner's ownership interest or its distributive or any other share of partnership income. A business conducted directly or indirectly by one corporation through its direct or indirect interest in a partnership is unitary with that portion of a business conducted by one or more other corporations through their direct or indirect interest in a partnership if there is a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts and the corporations are members of the same commonly controlled group.

(56) "Wages" means wages as defined in section 3401(a) of the Internal Revenue Code of 1986.

(57) "Water's-edge combined group" is comprised of all entities includible in the combined report, as determined pursuant to § 47-1810.07(a).

(58) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

(July 16, 1947, 61 Stat. 332, ch. 258, art. I, title I, § 4; May 3, 1948, 62 Stat. 206, ch. 246, § 1; May 27, 1949, 63 Stat. 129, ch. 146, title IV, §§ 401, 402; March 31, 1956, 70 Stat. 68, ch. 154, § 2; Sept. 19, 1966, 80 Stat. 809, Pub. L. 89-585, § 1; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 703; Oct. 31, 1969, 83 Stat. 176, Pub. L. 91-106, title VI, § 601(a); Oct. 21, 1975, D.C. Law 1-23, title VI, §§ 601(1), (2), 609, 22 DCR 2105, 2106, 2114; Mar. 3, 1979, D.C. Law 2-150, § 2, 25 DCR 7038; Mar. 6, 1979, D.C. Law 2-158, §§ 4, 5, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 101, 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 101, 29 DCR 1770; July 24, 1982, D.C. Law 4-130, § 2, 29 DCR 2412; July 24, 1982, D.C. Law 4-131, § 101, 29 DCR 2418; Sept. 17, 1982, D.C. Law 4-150, § 101, 29 DCR 3377; Oct. 8, 1983, D.C. Law 5-32, § 2, 30 DCR 4013; Mar. 14, 1985, D.C. Law 5-147, § 2(a), 31 DCR 6416; Sept. 5, 1985, D.C. Law 6-16, § 3(b), 32 DCR 3578; Sept. 5, 1985, D.C. Law 6-24, § 2, 32 DCR 3611; May 3, 1986, D.C. Law 6-110, § 2, 33 DCR 1744; June 24, 1987, D.C. Law 7-9, § 2(a), (b), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(a), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(a), 35 DCR 5398; May 10, 1989, D.C. Law 7-231, § 49, 36 DCR 492; Sept 20, 1989, D.C. Law 8-25, § 2, 36 DCR 4721; Sept. 26, 1990, D.C. Law 8-166, § 2, 37 DCR 4829; Aug. 17, 1991, D.C. Law 9-25, § 2, 38 DCR 4196; June 14, 1994, D.C. Law 10-128, § 103(a), 41 DCR 2096; Apr. 9, 1997, D.C. Law 11-182, § 2, 43 DCR 4251; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Nov. 19, 1997, 111 Stat. 2187, Pub. L. 105-100, § 157(c); Oct. 20, 1999, D.C. Law 13-38, § 2702(f), 46 DCR 6373; June 24, 2000, D.C. Law 13-126, § 2, 47 DCR 2643; Oct. 20, 2005, D.C. Law 16-33, § 1046(a), 52 DCR 7503; May 12, 2006, D.C. Law 16-98, § 2(d), 53 DCR 1869; Mar. 14, 2007, D.C. Law 16-292, § 2(a), 54 DCR 1080; Sept. 18, 2007, D.C. Law 17-20, § 1042, 54 DCR 7052; Sept. 12, 2008, D.C. Law 17-231, § 41(e), 55 DCR 6758; Mar. 25, 2009, D.C. Law 17-353, §§ 168(a), 215(b), 56

DCR 1117; Mar. 3, 2010, D.C. Law 18-108, § 2(a), 57 DCR 22; Mar. 3, 2010, D.C. Law 18-111, § 7241(c), 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 8002(b), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 7072(b), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 114(g), 59 DCR 6190.)

Section references. — This section is referenced in § 1-206.02, § 6-1110.02, § 26-635, § 47-1401, § 47-1803.03, § 47-1804.01, § 47-1806.09, § 47-1810.07, § 47-1816.03, § 47-1817.01, § 47-2510, and § 47-2514.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168, in (11)(A), deleted "of this section" following "paragraph (44)(A) and (B)," substituted "difference between" for "percentage that," substituted "and" for "that exceeds" following "preceding calendar year," and substituted "January 1, 2011, divided by the Consumer Price Index for the calendar year beginning January 1, 2011" for "January 1, 2007."

The 2012 amendment by D.C. Law 19-171 added the closing parenthetical following "1986" in (6)(B).

Temporary Amendment of Section. — Section 302(b) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1801.04. General definitions.

"For the purposes of this chapter, unless otherwise required by the context, the term:

"(1) 'Affiliated group' means an affiliated group as defined in section 1504 of the Internal Revenue Code of 1986; provided, that the affiliated group shall not include any corporation that does not have gross income derived from sources within the District.

"(2) 'Aggregated effective tax rate' means the sum of the effective rates of tax imposed by the District of Columbia, states, or possessions of the United States, and foreign nations that have entered into comprehensive tax treaties with the United States government, where a related member receiving a payment of interest expense or intangible expense is subject to tax and where the measure of the tax imposed included the payment.

"(3) 'Apportioned net operating loss' means the net operating loss generated in the year of the loss multiplied by the District of Columbia's apportionment formula for the loss year.

"(4) 'Blind' means a taxpayer whose central visual acuity does not exceed 2⁰⁄₂₀₀ in the better eye with correcting lenses or whose visual acuity is greater than 2⁰⁄₂₀₀ but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(5) 'Business income' means all income that is apportionable under the Constitution of the United States.

"(6)(A) 'Capital asset' means property defined or treated as a capital asset under the Internal Revenue Code of 1986.

"(B) For the purpose of computing for any taxable year, the tax imposed under this chapter with respect to sales or other dispositions of property referred to in subparagraph (A) of this paragraph, the provisions of the Internal Revenue Code of 1986 relating to the treatment of gains and losses (other than the alternative tax imposed by section 1201 of the Internal Revenue Code of 1986) shall apply.

"(7) 'Combined group' means the group of all persons whose income and apportionment factors are required to be taken into account pursuant to § 47-1805.02a(a) and (b) and the pertinent regulations in determining the taxpayer's share of the net business income or loss apportionable to the District.

"(8) 'Commercial domicile' means the principal place from which the trade or business of the taxpayer is directed or managed.

"(9) 'Compensation' means wages, salaries, commissions, and any other form of remuneration paid to an employee for personal services.

"(10) 'Corporation' means:

"(A) Any corporation as defined by the laws of the District or organization of any kind treated as a corporation for tax purposes under the laws of the District, wherever located, which, were it doing business in the District, would be subject to the tax imposed by this chapter;

"(B) The business conducted by a partnership within the meaning of § 47-1808.06, that is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the partnership income, inclusive of guaranteed payments to the extent prescribed by regulation; and

"(C) A joint-stock company, trust, association and S corporation as defined in section 1361(a) of the Internal Revenue Code of 1986, or other organization that is taxable as a corporation under federal income tax law.

"(11)(A) 'Cost-of-living adjustment' means an amount, for any calendar year, equal to the dollar amount set forth in paragraph (44)(A) and (B) of this section or § 47-1806.02(f)(1)(A) and (i) multiplied by the percentage that the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year beginning January 1, 2007.

"(B) For the purposes of this paragraph, the Consumer Price Index for any calendar year is the average of the Consumer Price Index for the Washington- Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor

index, as of the close of the 12-month period ending on July 31 of such calendar year.

"(12) 'Deficiency' with respect to any tax imposed by this chapter means:

"(A) The amount or amounts by which the tax imposed by this chapter, as determined by the Chief Financial Officer, exceeds the amount shown as the tax by the taxpayer upon his return; or

"(B) The amount assessed as a tax by the Chief Financial Officer if no return is filed by the taxpayer.

"(13) 'Dependent' means a dependent as defined in section 152 of the Internal Revenue Code of 1986.

"(14) 'Dividend' means any distribution made by a corporation or financial institution (domestic or foreign) to its stockholders or members, out of its earnings, profits, or surplus, other than paid-in surplus, whenever earned by the corporation or financial institution and whether made in cash or in any other property (other than stock of the same class in the corporation or financial institution, if the recipient of the stock dividend has neither received nor exercised an option to receive the dividend in cash or in property other than stock instead of stock) and whether distributed before, during, upon, or after liquidation or dissolution of the corporation or financial institution; except, that in the case of any such distribution, any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1986 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this chapter; provided, that in the case of any dividend that is distributed other than in cash or stock in the same class in the corporation or financial institution and not exempted from tax under this chapter, the basis of tax to the recipient shall be the market value of the property at the time of the distribution; provided further, that a dividend shall not include any dividend paid by a mutual life insurance company to its shareholders.

"(15) 'Doing business' means any activity of a corporation or financial institution that enjoys the benefits and protection of the government and laws of the District.

"(16) 'Domestic partners' means persons who have registered their relationship with the District pursuant to § 32-702.

"(17) 'Employee' means an individual having a place of abode or residing or domiciled within the District at the time the tax is required to be withheld in respect to the individual's employment by another, and to every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether domiciled in the District or not, including an officer of a corporation, but excluding any elective officer of the government of the United States or any officer or employee in the legislative branch of the government of the United States whose compensation is paid by the Secretary of the Senate or Clerk of the House of Representatives, any officer of the executive branch of the government of the United States whose appointment was made by the President of the United States, subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District of Columbia at any time during the taxable year.

"(18) 'Employer' means an employer as defined in section 3401(d) of the Internal Revenue Code of 1986.

"(19) 'Fiduciary' means a guardian, trustee, executor, committee, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any person.

"(20) 'Financial institution' means any bank or trust company incorporated or required to be incorporated and doing business under the laws of the United States, the District of Columbia, or any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by the District or by any state, territorial, or federal authority having supervision over the financial institution, including:

"(A) Any savings and loan associations; and

"(B) Any company, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, which is organized or created under the laws of a foreign country and which maintains an office or branch in the District.

"(21) 'Fiscal year' means an accounting period of 12 months ending on any day other than the last day of December and on the basis of which the taxpayer is required to report for federal income tax purposes.

"(22) 'Head of household' shall have the same meaning as defined in section 2(b) of the Internal Revenue Code of 1986.

"(23) 'Individual' means all natural persons (other than fiduciaries), whether married, domestic partners, or unmarried.

"(24) 'Intangible expense' means:

"(A) An expense, loss, or cost for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, ex-

change, or any other disposition of intangible property, to the extent the expense, loss, or cost is allowed as a deduction or cost in determining taxable income for the taxable year under the Internal Revenue Code of 1986;

"(B) A loss related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

"(C) A royalty, patent, technical, or copyright and licensing fee; or

"(D) Any other similar expense or cost.

"(25) 'Intangible property' means patents, patent applications, trade names, trademarks, service marks, copyrights, and similar types of intangible assets.

"(26) 'Interest expense' means an amount directly or indirectly allowed as a deduction under section 163 of the Internal Revenue Code of 1986 for purposes of determining taxable income under the Internal Revenue Code of 1986.

"(27) 'Internal Revenue Code of 1954' means the Internal Revenue Code of 1954, approved April 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), as amended through May 24, 1985.

"(28) 'Internal Revenue Code of 1986' means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.); which provisions shall apply on the same dates that they are effective for federal tax purposes.

"(29) 'International banking facility' or 'IBF' shall have the same meaning as provided in section 204.8(a)(1) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(1)).

"(30) 'International banking facility extension of credit' or 'IBF loan' shall have the same meaning as provided in section 204.8(a)(3) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(3)).

"(31) 'International Banking Facility time deposit' or 'IBF time deposit' shall have the same meaning as provided in section 204.8(a)(2) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(2)).

"(32) 'Net operating loss' shall have the same meaning as provided in section 172(c) of the Internal Revenue Code of 1986, subject to limitations and modifications provided in this section.

"(33) 'Net operating loss deduction' means the aggregate of the apportioned net operating loss carryovers to the taxable year.

"(34) 'Nonbusiness income' means all income other than business income.

"(35) 'Nonresident' means every individual other than a resident.

"(36) 'Ownership' in determining the ownership of stock, assets, or net profits of any person, means the constructive ownership of section 318(a) of the Internal Revenue Code of 1986 as modified by section 856(d)(5) of the Internal Revenue Code of 1986.

"(37) 'Partnership' means a general or limited partnership or organization of any kind that is treated as a partnership for tax purposes under the laws of the District of Columbia.

"(38) 'Payroll period' means a payroll period as defined in section 3401(b) of the Internal Revenue Code of 1986.

"(39) 'Person' means any individual, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation (whether or not the corporation is, or would be if doing business in the District, subject to this chapter), unincorporated business, company, syndicate, estate, trust, business trust, trustee, trustee in bankruptcy, receiver, executor, administrator, assignee, fiduciary, or organization of any kind.

"(40) 'Related entity' means a person that under the attribution rules of section 318 of the Internal Revenue Code of 1986 is:

"(A) A stockholder who is an individual, or a member of the stockholder's family as enumerated in section 318 of the Internal Revenue Code of 1986, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

"(B) A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock; or

"(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code of 1986 ('party related to the corporation'), if the corporation or party related to the corporation owns, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

"(41) 'Related member' means:

"(A) A person that, with respect to the taxpayer is, at any time during the year, a related entity;

"(B) A component member as defined in section 1563(b) of the Internal Revenue Code of 1986;

"(C) A controlled group of which the taxpayer is also a component; or

"(D) A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code of 1986.

"(42) 'Resident' means an individual domiciled in the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not the individual is domiciled in the District, excluding any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the government of the United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government whose appointment was made by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District at any time during the taxable year. In determining whether an individual is a resident, an individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

"(43) 'Sales' means all gross receipts of the taxpayer that are business income, as that term is defined in this section.

"(44) 'Standard deduction' means:

"(A) The amount of $4,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of $50, rounded to the next lowest multiple of $50), in the case of a return filed by a single individual, by a head of household, by a surviving spouse, or jointly by husband and wife (or domestic partner);

"(B) The amount of $2,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of $50, rounded to the next lowest multiple of $50), in the case of a married person filing separately; or

"(C) In the case of an individual who is a resident, as defined in paragraph (42) of this section, for less than a full 12-month taxable year, the amounts specified in subparagraphs (A) and (B) of this paragraph prorated by the number of months that the individual was a resident.

"(45) 'State' means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory, or possession of the United States and any foreign country or political subdivision thereof.

"(46) 'Subpart F income' shall have the same meaning as provided in section 952 of the Internal Revenue Code of 1986.

"(47) 'Surviving spouse' shall have the same meaning as provided in section 2(a) of the Internal Revenue Code of 1986; except, that in applying section 2(a) of the Internal Revenue Code of 1986, the term spouse shall be deemed to include a domestic partner.

"(48) 'Tax' or 'tax liability' includes the liability for all amounts owing by a taxpayer to the District under this chapter.

"(49) 'Tax haven' means a jurisdiction that:

"(A) For a particular tax year in question has no, or nominal, effective tax on the relevant income and has laws or practices that prevent effective exchange of information for tax purposes with other governments regarding taxpayers benefitting from the tax regime;

"(B) Lacks transparency, which for the purposes of this definition means that the details of legislative, legal, or administrative provisions are not open to public scrutiny and apparent or are not consistently applied among similarly situated taxpayers;

"(C) Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

"(D) Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

"(E)(i) Has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

"(ii) For the purposes of this definition, the term 'tax regime' means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to governmental authority.

"(50) 'Taxable income' means as required by the context set forth in § 47-1807.01(2) or § 47-1808.02(1).

"(51) 'Taxable year' means the calendar year or the fiscal year, whichever is the basis upon which the net income of the taxpayer is computed under this section; if no fiscal year has been established by the taxpayer, it means the calendar year. The term 'taxable year' includes, in the case of a return made for a fractional part of a calendar or fiscal year under the provisions of this section or under regulations prescribed by the Chief Financial Officer, the period for which the return is made; provided, that no

taxpayer shall change from a calendar year to a fiscal year or from a fiscal year to a calendar year within any taxable year without the written authorization of the Chief Financial Officer.

"(52) 'Taxpayer' means any person subject to the tax imposed by this chapter.

"(53) 'Trade or business' means the engaging in or carrying on of any trade, business, profession, vocation, or calling, or commercial activity in the District of Columbia, including activities in the District that benefit an affiliated entity of the taxpayer, the performance of functions of a public office, and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by the person or through an agent, and whether or not the person or agent performs any services in connection with the property.

"(54) 'United States' means the United States of America and includes all of the states of the United States, the District of Columbia, and United States' territories and possessions.

"(55)(A) 'Unitary business' means a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts.

"(B) For the purposes of this chapter, any business conducted by a partnership within the meaning of § 47-1808.06 shall be treated as conducted by its partners, whether directly held or indirectly held through a series of partnerships, to the extent of the partner's distributive share of the partnership's income, regardless of the percentage of the partner's ownership interest or its distributive or any other share of partnership income. A business conducted directly or indirectly by one person is unitary with that portion of a business conducted by another person through its direct or indirect interest in a partnership if there is a synergy and exchange and flow of value between the 2 parts of the business and the 2 persons are members of the same commonly controlled group.

"(56) 'Wages' means wages as defined in section 3401(a) of the Internal Revenue Code of 1986.

"(57) 'Water's-edge combined group' is comprised of all entities includible in the combined report, as determined pursuant to § 47-1810.07(a).

"(58) 'Worldwide combined report' means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary amendment of section, see § 302(b) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(b) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter III. Net Income, Gross Income and Exclusions Therefrom, and Deductions.

§ 47-1803.02. Gross income — Items included and excluded; "adjusted gross income" defined.

(a) *Gross income.* — The words "gross income" shall have the same meaning as defined in § 61 of the Internal Revenue Code of 1986. In addition to the

items specifically included or excluded by reference to § 61(b) of the Internal Revenue Code of 1986, the following items shall also be included or excluded in the computation of District gross income:

(1)(A) For taxpayers other than individuals, estates, and trusts, interest upon the obligations of a state, territory of the United States, or any political subdivision thereof, but not including the District, shall be included in the computation of District gross income.

(B) For individuals, estates, and trusts, interest upon the obligations of a state, territory of the United States, or any political subdivision thereof, but not including the District, acquired by the taxpayer on or after January 1, 2013, shall be included in the computation of District gross income.

(C) Nothing in this paragraph shall be construed as repealing or limiting the provisions of § 9-921.

(1A) Repealed.

(2) The following items shall be excluded in the computation of District gross income:

(A) After January 23, 1983, interest and dividend income on obligations or securities of the United States, or its agencies or instrumentalities, to the extent that this income is included in federal gross income.

(B) The amount of any income or gain included in the taxpayer's federal gross income for the taxable year to the extent that it was included as income or gain in an income or franchise tax return filed by:

(i) The taxpayer with the District for any taxable year beginning prior to January 1, 1982; or

(ii) An individual by reason of whose death the taxpayer acquired the right to receive the income or gain.

(C) The amount of any trust distribution to the taxpayer included in his federal gross income for the taxable year to the extent that such amount was previously taxed to the trust by the District.

(D) In the case of any person entitled to the distributive share of a trade or business net income that is from an unincorporated business as defined in § 47-1808.01, an amount equal to the pro rata distributive share, to the extent that portion of the distributive share so excluded is directly or indirectly reported by and taxed against any person under the provisions of this chapter.

(E) Any state or local income tax refund included in federal gross income.

(F) Income received or, in the case of a taxpayer reporting on an accrual basis, income accrued when the taxpayer was not a resident of the District.

(G) Income of any kind to the extent required by any treaty obligation of the United States, including reciprocal agreements between the United States and other countries relating to the taxability of their respective airlines and ships under foreign flag owned by foreign corporations.

(H) In the case of an International Banking Facility the gross income to the parent depository institution resulting from any IBF time deposit or any IBF loan; provided, however, that no expense or loss attributable to such income shall be allowed as a deduction under any other provision of this chapter, and; provided, further, that this exclusion from gross income shall not

include any amount derived by an International Banking Facility from IBF time deposits or IBF loans if the loan or deposit of funds is secured by a mortgage, deed of trust, or other lien upon real property located within the District of Columbia.

(I) Income derived from the sale of tangible personal property to the United States by corporations and unincorporated businesses having their principal places of business located outside the District, which property is delivered from places outside the District for use outside the District; provided, however, that the taxpayer shall furnish to the Mayor a statement in writing of the amount of gross sales so made and, if required by the Mayor, a list of the names of the agencies of the United States through which such property was sold.

(J) Dues and initiation fees in the case of any club organized and operated exclusively for pleasure and recreation, no part of the net earnings of which inures to the benefit of any private individual or shareholder. As used in this subparagraph, the term "dues" means only sums paid or incurred by members on a monthly, quarterly, annual, or other periodic basis for the privilege of being members of such club and any pro rata assessment made against the members as such. The term "dues" does not include any sums paid or incurred by members or their guests for food, beverages, or other tangible personal property purchased or for the use of the club's social, athletic, sporting, and other facilities. The term "initiation fees" includes any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of interest or indebtedness.

(K) The amount of any compensation deferred under the employee deferred compensation program pursuant to § 47-3601; provided, that the amount of any such compensation or any income attributable to the amount of compensation so deferred shall be includable in gross income for the taxable years in which such compensation or other income is paid or otherwise made available to the employee or other beneficiary.

(L) Social security and tier 1 railroad retirement benefits subject to taxation under § 86 of the Internal Revenue Code of 1986.

(M) Certain disability income payments excludable under § 105(d) of the Internal Revenue Code of 1986 before the enactment of the Social Security Amendments of 1983 (26 U.S.C. § 86).

(N) Pension, military retired pay, annuity income, or survivor benefits received from the District of Columbia or the federal government by persons who are 62 years of age or older by the end of the taxable year, except that:

(i) The exclusion shall not exceed the lesser of $3,000 or the actual amount of the pension, military retired pay, or annuity received during the taxable years; and

(ii) The pension, military retired pay or annuity is otherwise subject to taxation under this chapter.

(O) Repealed.

(P) In the case of any person entitled to a share in the income of any corporation which is an S corporation as defined in section 1361(a) of the

Internal Revenue Code of 1986, an amount equal to the pro rata share of the income, to the extent that the portion of the income so excluded is directly or indirectly reported by and taxed against any person under the provisions of this chapter.

(Q) Repealed.

(R) A relocation payment received under section 205 or 206 of the Housing Act of 2001 [§ 42-2851.05 or § 42-2851.06].

(S) The proceeds from the sale of, or the use of a transferred, tax credit under § 47-1806.08c [repealed].

(T) Homeownership assistance received by the eligible employee through a certified employer-assisted home purchase program, as those terms are defined in § 47-1807.07, and used for the purchase of a qualified residential real property.

(U) The amount received by a claimant, excluding backpay (as defined in § 47-1806.10(3) [§ 47-1806.10(a)(3)]), frontpay (as defined in § 47-1806.10(5) [§ 47-1806.10(a)(5)]), or punitive damages, whether by agreement (as reasonably allocated) or suit and whether as a lump sum or periodic payments, on account of a claim of unlawful discrimination.

(V) Income derived from any source, not to exceed $10,000, for a person who has been determined to have a permanent and total disability by the Social Security Administration, is receiving Supplemental Security Income or Social Security Disability, is receiving railroad retirement disability benefits, or is receiving federal or District of Columbia government disability payments; and, whose household adjusted gross income, as defined in § 47-863(a)(2), is less than $100,000.

(W) The amount of any health care insurance premium paid by an employer for a non-employee domestic partner, as the term "domestic partner" is defined in § 32-701(3).

(X) Loans awarded and subsequently forgiven under [part F of subchapter IV of Chapter 3 of Title 1].

(Y) Fees retained by a retail establishment under [§ 8-102.03(b)(1)].

(Z) Computations of discharge of indebtedness income under section 108(i) of the Internal Revenue Code of 1986.

(AA) The amount received by a taxpayer pursuant to § 8-1774.09.

(3) The monetary assistance provided to an owner of a housing accommodation under section 8 of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. § 1437f), either directly or through a tenant, shall be income.

(a-1) Notwithstanding subsection (a) of this section, for the purposes of the deduction for state sales and excise taxes on the purchase of certain motor vehicles, the term "gross income" shall have the same meaning as set forth in section 61 of the Internal Revenue Code of 1986, as that section existed on December 31, 2008.

(b) *Adjusted gross income.* — The words "adjusted gross income" as used in this chapter mean:

(1) In the case of an individual, estate, or trust, the same meaning as defined in § 62 of the Internal Revenue Code of 1986; and

(2) In the case of an individual, estate, or trust not required to file a District return for a complete calendar or fiscal year, gross income reported under subsection (a) of this section, less deductions allowed under § 62 of the Internal Revenue Code of 1986, which were paid or accrued during the period covered by the District return.

(c) Repealed.

(July 16, 1947, 61 Stat. 335, ch. 258, art. I, title III, § 2; May 3, 1948, 62 Stat. 207, ch. 246, § 3; May 27, 1949, 63 Stat. 130, ch. 146, title IV, §§ 403, 420; Sept. 4, 1957, 71 Stat. 605, Pub. L. 85-281, §§ 1, 3; June 27, 1960, 74 Stat. 219, Pub. L. 86-522, § 1; Sept. 19, 1966, 80 Stat. 812, Pub. L. 89-591, § 1; Oct. 31, 1969, 83 Stat. 176, 177, Pub. L. 91-106, title VI, §§ 601(b)(1), (2), 602; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(4), 22 DCR 2106; Apr. 19, 1977, D.C. Law 1-124, title IV, § 401(a), 23 DCR 8749; Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-95, § 103(a), 27 DCR 3509; June 11, 1982, D.C. Law 4-118, § 103, 29 DCR 1770; July 24, 1982, D.C. Law 4-130, § 2, 29 DCR 2412; Sept. 17, 1982, D.C. Law 4-150, § 102, 29 DCR 3377; Oct. 8, 1983, D.C. Law 5-32, § 3(a), (b), 30 DCR 4013; Sept. 26, 1984, D.C. Law 5-118, § 6(c), 31 DCR 4034; Mar. 14, 1985, D.C. Law 5-147, § 2(b), 31 DCR 6416; July 24, 1986, D.C. Law 6-129, § 2(a), 33 DCR 3221; June 24, 1987, D.C. Law 7-9, § 2(d), (e), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(c)(1)-(4), 34 DCR 5097; July 8, 1988, D.C. Law 7-130, § 2(a), 35 DCR 4104; Sept. 21, 1988, D.C. Law 7-145, § 2(a), 35 DCR 5407; July 26, 1989, D.C. Law 8-17, § 2(a), 36 DCR 4160; Mar. 20, 1992, D.C. Law 9-86, § 2, 39 DCR 716; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 3, 2001, D.C. Law 13-256, § 406, 48 DCR 730; Apr. 19, 2002, D.C. Law 14-114, §§ 292(a), 302(b)(1), 901(b)(1), 49 DCR 1468; June 25, 2002, D.C. Law 14-165, § 2(b)(1), 49 DCR 4261; Oct. 19, 2002, D.C. Law 14-213, § 33(r), 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 107, 51 DCR 881; Oct. 20, 2005, D.C. Law 16-33, § 1291, 52 DCR 7503; Mar. 8, 2006, D.C. Law 16-59, § 2, 53 DCR 17; Mar. 14, 2007, D.C. Law 16-294, § 16, 54 DCR 1086; Apr. 24, 2007, D.C. Law 16-305, § 73(d), 53 DCR 6198; Sept. 23, 2009, D.C. Law 18-55, § 9(a)(2), 56 DCR 5703; Mar. 3, 2010, D.C. Law 18-111, § 7121, 57 DCR 181; Mar. 12, 2011, D.C. Law 18-316, § 2, 57 DCR 12416; Mar. 31, 2011, D.C. Law 18-331, § 4, 58 DCR 22; Sept. 14, 2011, D.C. Law 19-21, § 8152, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, §§ 7152, 8009(a), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 118, 59 DCR 6190; Mar. 5, 2013, D.C. Law 19-211, § 2(b), 59 DCR 13281.)

Section references. — This section is referenced in § 4-1701.01, § 42-2851.05, § 47-1806.06, § 47-1806.09, § 47-1809.10, § 47-1810.01, and § 47-1812.08.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168, § 7152, substituted "January 1, 2013" for "October 1, 2011" in (a)(1)(B); and repealed (a)(1A).

The 2012 amendment by D.C. Law 19-168, § 8009(a), in (a)(1)(B), substituted "Individuals" for "For individuals," substituted "shall not include interest on" for "interest upon," added "the District of Columbia," and deleted "but not including the District, acquired by the taxpayer on or after October 1, 2011, shall be included" following "subdivision thereof"; and made a stylistic change.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (a)(2)(Z).

The 2013 amendment by D.C. Law 19-211 repealed (a)(2)(Q).

Temporary Amendment of Section.

Section 3(a) of D.C. Law 19-172 provided that the Chief Financial Officer shall recognize as fiscal year 2013 revenue $1,100,000 from the

General Fund of the District of Columbia balance at the end of fiscal year 2012, which shall be allocated to fund the fiscal effect of the extension of time, relating to the computation of gross income tax, set forth in D.C. Law 19-172, § 3(b).

Section 3(b) of D.C. Law 19-172 amended (a)(1)(B) to read as follows:

"(a) *Gross income.* The words 'gross income' shall have the same meaning as defined in § 61 of the Internal Revenue Code of 1986. In addition to the items specifically included or excluded by reference to § 61(b) of the Internal Revenue Code of 1986, the following items shall also be included or excluded in the computation of District gross income:

"(1)

*****

"(B) For individuals, estates, and trusts, interest upon the obligations of a state, territory of the United States, or any political subdivision thereof, but not including the District, acquired by the taxpayer on or after January 1, 2013, shall be included in the computation of District gross income."

Section 7(b) of D.C. Law 19-172 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 3(b) of Fiscal Year 2012 Second Revised Budget Request Emergency Adjustment Act of 2012 (D.C. Act 19-382, June 20, 2012, 59 DCR 7760).

For temporary (90 day) addition of section, see § 3(a) of Fiscal Year 2012 Second Revised Budget Request Emergency Adjustment Act of 2012 (D.C. Act 19-382, June 20, 2012, 59 DCR 7760).

For temporary (90 day) amendment of section, see § 8009(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of section, see § 3(a) of Fiscal Year 2012 Second Revised Budget Request Congressional Review Emergency Adjustment Act of 2012 (D.C. Act 19-406, July 20, 2012, 59 DCR 9124).

For temporary (90 day) amendment of section, see § 3(b) of Fiscal Year 2012 Second Revised Budget Request Congressional Review Emergency Adjustment Act of 2012 (D.C. Act 19-406, July 20, 2012, 59 DCR 9124).

For temporary (90 day) amendment of section, see § 8009(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary amendment of section, see § 302(c) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Legislative history of Law 19-211. — Law 19-211, the "Technology Sector Enhancement Act of 2012," was introduced in Council and assigned Bill No. 19-747. The Bill was adopted on first and second readings on Sept. 19, 2012, and Oct. 16, 2012, respectively. Signed by the Mayor on Nov. 1, 2012, it was assigned Act No. 19-513 and transmitted to Congress for its review. D.C. Law 19-211 became effective on Mar. 5, 2013.

Editor's notes.

Section 7153 of D.C. Law 19-171 provided that the amendment by D.C. Law 19-171, § 7152 shall apply upon certification by the Chief Financial Officer that sufficient revenue is available in the June 2012, September 2012, or December 2012 revenue estimates to fund section 10002(a)(1) through (27) of the Revised Revenue Estimate Contingency Priority List Act of 2012, passed on 2nd reading on June 5, 2012 (Enrolled version of Bill 19-743) [D.C. Law 19-168].

As of date of incorporation of this provision into this section, the CFO has not made the certification required by D.C. Law 19-171, § 7153; therefore, the amendment made by D.C. Law 19-171, § 7152, has not been given effect.

Subchapter V. Returns.

§ 47-1805.02a. Combined reporting.

Section references. — This section is referenced in § 47-1801.04 and § 47-1810.07.

Temporary Amendment of Section. — Section 302(c) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1805.02a. Combined reporting required.

"(a) For tax years beginning on and after December 31, 2010, a taxpayer engaged in a unitary business with one or more other persons that are part of a water's-edge combined group reporting pursuant to § 47-1810.07(a) shall file a combined report, which includes the income, determined under § 47-1810.04 and § 47-1810.05 and the allocation and apportionment factors determined under § 47-1810.02 and the pertinent regulations of all such persons that are members of the unitary business, and other information as required by the Chief Financial Officer. If a worldwide combined reporting election has been made, the taxpayer shall file a combined report that includes such income and factors of all the persons that are members of the unitary business, and any other information as required by the Chief Financial Officer.

"(b) The Chief Financial Officer may, by regulation, require a combined report to include the income and associated apportionment factors of any persons that are not included pursuant to subsection (a) of this section but that are members of a unitary business to reflect proper apportionment of income of the entire unitary business.

"(c) If the Chief Financial Officer determines that the reported income or loss of a taxpayer engaged in a unitary business with any person not included represents an avoidance or evasion of tax by the taxpayer, the Chief Financial Officer may, on a case-by-case basis, require that all or any part of the income and associated apportionment factors be included in the taxpayer's combined report.

"(d) With respect to inclusion of associated apportionment factors pursuant to this section, the Chief Financial Officer may require the exclusion of any one or more of the factors, the inclusion of one or more additional factors, which will fairly represent the taxpayer's business activity in the District, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

"(e) The Chief Financial Officer shall adopt regulations as necessary to ensure that the tax liability or net income of any taxpayer whose income derived from or attributable to sources within the District that is required to be determined by a combined report pursuant to § 47-1810.02 or § 47-1810.07 and of each entity included in the combined report, both during and after the period of inclusion in the combined report, is properly reported, determined, computed, assessed, collected, or adjusted.

"(f) The Chief Financial Officer shall adopt regulations as necessary prescribing the form and manner of all returns and reports required under § 47.1805.02a [sic], including the time, place and extension of such returns and reports.

"(g) Any taxpayer election made under § 47.1805.02(5)(C) and the pertinent regulations to file a consolidated return is revoked for tax years beginning after December 31, 2010."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(c) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(c) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable for taxable years beginning after December 31, 2010.

Subchapter VI. Tax on Residents and Nonresidents.

§ 47-1806.03. Tax on residents and nonresidents — Imposition and rates.

(a)(1) In the case of a taxable year beginning after December 31, 1986, there

is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	6% of the taxable income.
Over $10,000 but not over $20,000	$600, plus 8% of the excess over $10,000.
Over $20,000	$1,400, plus 10% of the excess over $20,000.

(2) In the case of a taxable year beginning after December 31, 1987, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	6% of the taxable income.
Over $10,000 but not over $20,000	$600, plus 8% of the excess over $10,000.
Over $20,000	$1,400, plus 9.5% of the excess over $20,000.

(3) In the case of a taxable year beginning after December 31, 1999, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	5% of the taxable income.
Over $10,000 but not over $20,000	$500, plus 7.5% of the excess over $10,000.
Over $20,000	$1,250, plus 9.5% of the excess over $20,000.

(4)(A) In the case of a taxable year beginning after December 31, 2000, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	5% of the taxable income.
Over $10,000 but not over $30,000	$500, plus 7.5% of the excess over $10,000.
Over $30,000	$2,000, plus 9.3% of the excess over $30,000.

(B) Repealed.

(5)(A) In the case of a taxable year beginning after December 31, 2003, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	5.0% of the taxable income.
Over $10,000 but not over $30,000	$500, plus 7.5% of the excess over $10,000.
Over $30,000	$2,000, plus 9.0% of the excess over $30,000.

(B) Subparagraph (A) of this paragraph shall not apply if:

(i) The certification by the Chief Financial Officer required by § 47-

387.01 demonstrates that the accumulated general fund balance for the immediately preceding fiscal year is less than 5% of the general fund operating budget for the current fiscal year, the nominal GDP growth is less than or equal to 3.5%, or the real GDP growth is less than or equal to 1.7%; or

(ii) The Mayor demonstrates, and the Chief Financial Officer certifies, that a proposed budget will not be balanced as required by § 1-206.03(c) if the scheduled tax rate decrease under subparagraph (A) of this paragraph takes effect.

(6)(A) In the case of a taxable year beginning after December 31, 2004, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	4.5% of the taxable income.
Over $10,000 but not over $40,000	$450, plus 7% of the excess over $10,000.
Over $40,000	$2,550, plus 8.7% of the excess over $40,000.

(B) Subparagraph (A) of this paragraph shall not apply if:

(i) The certification by the Chief Financial Officer required by § 47-387.01 demonstrates that the accumulated general fund balance for the immediately preceding fiscal year is less than 5% of the general fund operating budget for the current fiscal year, the nominal GDP growth is less than or equal to 3.5%, or the real GDP growth is less than or equal to 1.7%; or

(ii) The Mayor demonstrates, and the Chief Financial Officer certifies, that a proposed budget will not be balanced as required by § 1-206.03(c) if the scheduled tax rate decrease under subparagraph (A) of this paragraph takes effect.

(C) If the rate reduction scheduled for the previous year was not implemented, the rate imposed by this paragraph shall be the last unimplemented percentage decrease scheduled for a previous year, instead of that prescribed by this paragraph.

(7)(A) In the case of a taxable year beginning after December 31, 2005, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	4% of the taxable income.
Over $10,000 but not over $40,000	$400, plus 6% of the excess over $10,000.
Over $40,000	$2,200, plus 8.5% of the excess over $40,000.

(B) Subparagraph (A) of this paragraph shall not apply if:

(i) The certification by the Chief Financial Officer required by § 47-387.01 demonstrates that the accumulated general fund balance for the immediately preceding fiscal year is less than 5% of the general fund operating budget for the current fiscal year, the nominal GDP growth is less than or equal to 3.5%, or the real GDP growth is less than or equal to 1.7%; or

(ii) The Mayor demonstrates, and the Chief Financial Officer certi-

fies, that a proposed budget will not be balanced as required by § 1-206.03(c) if the scheduled tax rate decrease under subparagraph (A) of this paragraph takes effect.

(C) If the rate reduction scheduled for the previous year was not implemented, the rate imposed by this paragraph shall be the last unimplemented percentage decrease scheduled for a previous year, instead of that prescribed by this paragraph.

(8)(A) In the case of a taxable year beginning after December 31, 2011, there is imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is:	*The tax is:*
Not over $10,000	4% of the taxable income.
Over $10,000 but not over $40,000	$400, plus 6% of the excess over $10,000.
Over $40,000 but not over $350,000	$2,200, plus 8.5% of the excess over $40,000.
Over $350,000	$28,550, plus 8.95% of the excess above $350,000.

(B) This paragraph shall expire on January 1, 2016.

(b) In lieu of the method of computation provided for in subsection (a) of this section, individuals may elect to compute the tax in accordance with a tax table prescribed by the Mayor for such taxable year, subject to such rules and regulations as the Mayor may prescribe. The amount of tax to be paid under the tax table prescribed by the Mayor shall be consistent with the tax rates provided for in subsection (a) of this section.

(c) An individual not living with a spouse or domestic partner on the last day of the taxable year, for the purposes of this chapter, shall be considered as a single person.

(d) This section shall not apply to any return filed by a fiduciary for an estate or trust or to any married (or domestic partner) resident living with his or her spouse (or domestic partner) at any time during the taxable year where such spouse (or domestic partner) files a return and computes the tax thereon without regard to this section.

(e) If a spouse or domestic partner living together file separate returns, each shall be treated as a single person for the purposes of this section.

(July 16, 1947, 61 Stat. 344, ch. 258, art. I, title VI, §§ 3, 4; May 27, 1949, 63 Stat. 132, ch. 146, title IV, § 413; May 18, 1954, 68 Stat. 117, ch. 218, title XII, § 1201; Mar. 31, 1956, 70 Stat. 70, ch. 154, §§ 7, 8; Sept. 4, 1957, 71 Stat. 606, Pub. L. 85-281, § 5; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 701; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title II, § 201; June 30, 1970, 84 Stat. 366, Pub. L. 91-297, title IV, § 401; Oct. 21, 1975, D.C. Law 1-23, title VI, § 601(9), 22 DCR 2110; June 15, 1976, D.C. Law 1-70, title XII, § 1201(a), 23 DCR 564; June 11, 1982, D.C. Law 4-118, § 109, 29 DCR 1770; Oct. 1, 1987, D.C. Law 7-29, § 2(f)(2), 34 DCR 5097; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 20, 1999, D.C. Law 13-38, § 2702(h), 46 DCR 6373; Oct. 1, 2002, D.C. Law 14-190, § 802(b), 49 DCR 6968; Mar. 14, 2007, D.C. Law

16-292, § 2(d), 54 DCR 1080; Sept. 12, 2008, D.C. Law 17-231, § 41(h), 55 DCR 6758; Sept. 20, 2012, D.C. Law 19-168, § 8009(b), 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 37(c), 59 DCR 6190.)

Section references. — This section is referenced in § 47-340.26, § 47-858.04, § 47-1806.07, § 47-1806.09a, § 47-1806.09e, § 47-1806.10, § 47-1812.08, and § 47-4214.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (a)(8).

The 2012 amendment by D.C. Law 19-171 substituted "spouse or domestic partner" for "spouses or domestic partners" in (e).

Emergency legislation.

For temporary (90 day) amendment of section, see § 8009(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 8009(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter VIII. Tax on Unincorporated Businesses.

§ 47-1808.06a. Taxation of limited liability companies.

For purposes of District income and franchise taxation, a limited liability company formed under Chapter 8 of Title 29 or a foreign limited liability company registered to do business in the District under Chapter 1 of Title 29 shall be classified as a partnership unless classified otherwise for federal income tax purposes, in which case the limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For purposes of District income and franchise taxation, a member or an assignee of a member of a limited liability company formed or subject to Title 29 shall be treated as either a resident or nonresident partner unless classified otherwise for federal income tax purposes, in which case the member or assignee of a member shall have the same status as such member or assignee of a member has for federal income tax purposes.

(July 2, 2011, D.C. Law 18-378, § 3(jj)(1)(D), 58 DCR 1720; Sept. 26, 2012, D.C. Law 19-171, § 89(c), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-378 which did not affect this section as codified.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter X. Purpose of Chapter and Allocation and Apportionment.

§ 47-1810.04. Determination of taxable income or loss using combined report; components of income subject to tax in the District, application of tax credits and post-apportionment deductions; determination of taxpayer's share of the business income of a combine group apportionable to the District.

(a) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include, in addition to other types of income, the taxpayer member's apportioned share of business income of the combined group, where business income of the combined group is calculated as a summation of the individual net business incomes of all members of the combined group. A member's net business income is determined by removing all but business income, expense, and loss from that member's total income, as provided in this section and § 47-1810.05.

(b)(1) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include its:

(A) Share of any business income apportionable to the District of each of the combined groups of which it is a member, as determined under subsection (c) of this section;

(B) Share of any business income apportionable to the District of a distinct business activity conducted within and outside the District wholly by the taxpayer member, as determined under the provisions for apportionment of business income set forth in this chapter;

(C) Income from a business conducted wholly by the taxpayer member entirely within the District;

(D) Income sourced to the District from the sale or exchange of capital or assets, and from involuntary conversions, as determined under § 47-1810.05(b)(8);

(E) Nonbusiness income or loss allocable to the District as determined under the provisions for allocation of nonbusiness income set forth in this chapter;

(F) Income or loss allocated or apportioned in an earlier year required to be taken into account as District source income during the income year, other than a net operating loss; and

(G) Net operating loss carryover.

(2) If the taxable income computed pursuant to this section and § 47-1810.05 results in a loss for a taxpayer member of the combined group, that taxpayer member has a District net operating loss, subject to the net operating loss limitations and carryover provisions of this chapter. The District net

operating loss shall be applied as a deduction in a prior or subsequent year only if that taxpayer has District source positive net income, whether or not the taxpayer is or was a member of a combined reporting group in the prior or subsequent year.

(3) Except where otherwise provided, no tax credit or post-apportionment deduction earned by one member of the group, but not fully used by or allowed to that member, may be used, in whole or in part, by another member of the group or applied, in whole or in part, against the total income of the combined group. A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year regardless of the composition of that income as apportioned, allocated, or wholly within the District.

(c)(1) The taxpayer's share of the business income apportionable to the District of each combined group of which it is a member shall be the product of the:

(A) Business income of the combined group, determined under § 47-1810.05; and

(B) Taxpayer member's apportionment percentage, determined in accordance with this chapter, including in the property, payroll, and sales factor numerators of the taxpayer's property, payroll, and sales, respectively, associated with the combined group's unitary business in the District and including in the denominator the property, payroll, and sales of all members of the combined group, including the taxpayer, which property, payroll, and sales are associated with the combined group's unitary business wherever located.

(2) The property, payroll, and sales of a partnership shall be included in the determination of the partner's apportionment percentage in proportion to a ratio the numerator of which is the amount of the partner's distributive share of partnership's unitary income included in the income of the combined group in accordance with § 47-1810.05 and the denominator of which is the amount of the partnership's total unitary income.

(Sept. 14, 2011, D.C. Law 19-21, § 8002(d), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(h), 59 DCR 6190.)

Section references. — This section is referenced in § 47-1805.02a and § 47-1810.05.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 deleted the comma preceding "results" in (b)(2).

Temporary Amendment of Section. — Section 302(d) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1810.04. Determination of taxable income or loss using combined report; components of income subject to tax in the District, application of tax credits and post- apportionment deductions; determination of taxpayer's share of the business income of a combine group apportionable to the District.

"(a) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include, in addition to other types of income, the taxpayer member's apportioned share of business income of the combined group, where business income of the combined group is calculated as a summation of the individual net business incomes of all members of the combined group. A member's net business income is determined by removing all but business income, expense, and loss from that member's total income, as provided in this section and § 47-1810.05.

"(b)(1) Each taxpayer member is responsible

for tax based on its taxable income or loss apportioned or allocated to the District, which shall include its:

"(A) Share of any business income apportionable to the District of each of the combined groups of which it is a member, as determined under subsection (c) of this section;

"(B) Share of any business income apportionable to the District of a distinct business activity conducted within and without the District wholly by the taxpayer member, as determined under the provisions for apportionment of business income set forth in this chapter;

"(C) Income from a business conducted wholly by the taxpayer member entirely within the District;

"(D) Income sourced to the District from the sale or exchange of capital or assets, and from involuntary conversions, as determined under § 47-1810.05(b)(8);

"(E) Nonbusiness income or loss allocable to the District as determined under the provisions for allocation of nonbusiness income set forth in this chapter;

"(F) Income or loss allocated or apportioned in an earlier year required to be taken into account as District source income during the income year, other than a net operating loss; and

"(G) Net operating loss carryover.

"(2) If the taxable income computed pursuant to this section and § 47-1810.05 results in a loss for a taxpayer member of the combined group, that taxpayer member has a District net operating loss, subject to the net operating loss limitations and carryover provisions of this chapter. The District net operating loss shall be applied as a deduction in the subsequent year only if that taxpayer has District source positive net income, whether or not the taxpayer is a member of a combined reporting group in the subsequent year.

"(3) Except where otherwise provided, no tax credit or post-apportionment deduction earned by one member of the group, but not fully used by or allowed to that member, may be used, in whole or in part, by another member of the group or applied, in whole or in part, against the total income of the combined group. A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year regardless of the composition of that income as apportioned, allocated, or wholly within the District.

"(c)(1) The taxpayer's share of the business income apportionable to the District of each combined group of which it is a member shall be the product of the:

"(A) Business income of the combined group, determined under § 47- 1810.05; and

"(B) Taxpayer member's apportionment percentage, determined in accordance with this chapter, including in the property, payroll, and sales factor numerators of the taxpayer's property, payroll, and sales, respectively, associated with the combined group's unitary business in the District and including in the denominator the property, payroll, and sales of all members of the combined group, including the taxpayer, which property, payroll, and sales are associated with the combined group's unitary business wherever located.

"(2) If any member owns an interest in a partnership that is not an unincorporated business, as defined by § 47-1808.01, the income or loss of such partnership shall be apportioned to the District using the apportionment factor of the partnership, and the combined group member-partner's distributive share of such income shall be added to the combined group member-partner's income."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(c) of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable for taxable years beginning after December 31, 2010.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

§ 47-1810.05. Determination of the business income of the combined Group.

Section references. — This section is referenced in § 47-1805.02a and § 47-1810.04.

Temporary Amendment of Section. — Section 302(d) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1810.05. Determination of the business income of the combined group.

"(a) The business income of a combined group is determined as follows:

"(1) From the total income of the combined group as determined under paragraph (2) of this subsection and subsection (b) of this section, subtract any income and add any expense or loss, other than the business income, expense, or loss of the combined group.

"(2) Except as otherwise provided, the total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for District purposes, as if the member were not consolidated for federal purposes.

"(3) Notwithstanding any other provision of this chapter or the combined reporting regulations, if the combined group includes or any member owns an unincorporated business that would be subject to the tax imposed under § 47-1808.03, the income or loss of such unincorporated business shall be apportioned to the District using the apportionment factor of the unincorporated business, and the combined group member- partner's distributive share of such income shall be added to the combined group member- partner's income. A combined group member-partner's distributive share of an unincorporated business's income that was actually taxed under § 47-1808.03 shall be subtracted from the combined group member-partner's income.

"(b) The income of each member of the combined group shall be determined as follows:

"(1) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making appropriate adjustments under this chapter.

"(2) For any member not included in paragraph (1) of this subsection, the income to be included in the total income of the combined group shall be determined as follows:

"(A) A profit and loss statement shall be prepared for each foreign branch or corporation in the currency in which the books of account of the branch or corporation are regularly maintained.

"(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements, except as modified by regulation.

"(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required by this chapter.

"(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records.

"(E) Income apportioned to the District shall be expressed in United States dollars.

"(3)(A) In lieu of the procedures set forth in paragraph (2) of this subsection, and subject to the determination of the Chief Financial Officer that it reasonably approximates income as determined under this chapter, any member not subject to paragraph (1) of this subsection may determine its income on the basis of the consolidated profit and loss statement that includes the member and that is prepared for filing with the Securities and Exchange Commission by related corporations.

"(B) If the member is not required to file with the Securities and Exchange Commission, the Chief Financial Officer may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor.

"(C) If the statements described in subparagraphs (A) or (B) of this paragraph do not reasonably approximate income as determined under this chapter, the Chief Financial Officer may accept those statements with appropriate adjustments to approximate that income.

"(4) If a unitary business includes income from a partnership, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the partnership's unitary business income.

"(5)(A) All dividends paid by one to another of the members of the combined group shall, to the extent those dividends are paid out of the earnings and profits of the unitary business included in the combined report, in the current or an earlier year, be eliminated from the income of the recipient.

"(B) Except as otherwise provided, this paragraph shall not apply to dividends received from members of the unitary business that are not a part of the combined group. Except when specifically required by the Chief Financial Officer to be included, all dividends paid by an insurance company directly or indirectly to a

corporation that is part of a unitary business with the insurance company shall be deducted or eliminated from the income of the recipient of the dividend.

"(6)(A) Except as otherwise provided by regulation, business income from an inter-company transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. § 1.1502-13.

"(B) Upon the occurrence of any of the following events, deferred business income resulting from an inter-company transaction between members of a combined group shall be restored to the income of the seller and shall be apportioned as business income earned immediately before the event:

"(i) The object of a deferred inter-company transaction is:

"(I) Resold by the buyer to an entity that is not a member of the combined group;

"(II) Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or

"(III) Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

"(ii) The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary.

"(7)(A) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction pursuant to section 170 of the Internal Revenue Code of 1986, be subtracted first from the business income of the combined group, subject to the income limitations of that section applied to the entire business income of the group, and any remaining amount shall then be treated as a nonbusiness expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonbusiness income of that specific member.

"(B) Any charitable deduction disallowed under subparagraph (A) of this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and the rules set forth in this section shall apply in the subsequent year in determining the allowable deduction in that year.

"(8) Gain or loss from the sale or exchange of capital assets, property described by section 1231(a)(3) of the Internal Revenue Code of 1986, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

"(A) For each class of gain or loss (short-term capital, long-term capital, section 1231 of the Internal Revenue Code of 1986, and involuntary conversions) all members' business gain and loss for the class shall be combined without netting between classes and each class of net business gain or loss separately apportioned to each member using the member's apportionment percentage determined under § 47-1810.04.

"(B) Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any such apportioned business gain and loss from other combined groups, against the taxpayer member's nonbusiness gain and loss for all classes allocated to the District, using the rules of sections 1222 and 1231 of the Internal Revenue Code of 1986, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, section 1231 of the Internal Revenue Code of 1986 property, and involuntary conversions that are nonbusiness items allocated to another state.

"(C) Any resulting District source income or loss, if the loss is not subject to the limitations of section 1211 of the Internal Revenue Code of 1986, of a taxpayer member produced by the application of the preceding subparagraphs shall then be applied to all other District source income or loss of that member.

"(D) Any resulting District source loss of a member that is subject to the limitations of section 1211 of the Internal Revenue Code of 1986 shall be carried over by that member and shall be treated as District source short-term capital loss incurred by that member for the year for which the carryover applies.

"(9) Any expense of one member of the unitary group that is directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary group shall be allocated to that other member as a corresponding nonbusiness or exempt expense, as appropriate."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

§ 47-1810.06. Designation of surety.

Temporary Amendment of Section. — Section 302(d) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1810.06. Designation of agent.

"As a filing convenience, and without changing the respective liability of group members, members of a combined reporting group shall designate one taxpayer member of the combined group to file a single return, in the form and manner prescribed by the Chief Financial Officer, in lieu of filing their own respective returns; provided, that the taxpayer designated to file the single return consents to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report and agrees to act as agent on behalf of those taxpayers for tax matters relating to the combined report. If for any reason the agent is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(a) and (d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(a) and (d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

§ 47-1810.07. Water's-edge reporting; initiation and withdrawal election.

Section references. — This section is referenced in § 47-1801.04 and § 47-1805.02a.

Temporary Amendment of Section. — Section 302(d) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1810.07. Water's-edge reporting; initiation and withdrawal election.

"(a)(1) Absent an election under subsection (b) of this section to report based upon a worldwide unitary combined reporting basis, taxpayer members of a unitary group shall determine each of their apportioned shares of the net business income or loss of the combined group on a water's-edge unitary combined reporting basis.

"(2) In determining tax under this chapter on a water's-edge unitary combined reporting basis, taxpayer members shall take into account all or a portion of the income and apportionment factors of only the following members otherwise included in the combined group pursuant to § 47-1805.02a:

"(A) The entire income and apportionment factors of any member incorporated in the United States or formed under the laws of any state, the District, or any territory or possession of the United States;

"(B) The entire income and apportionment factors of any member, regardless of the place incorporated or formed, if the average of its property, payroll, and sales factors within the United States is 20% or more;

"(C) The entire income and apportionment factors of any member that is a domestic international sales corporation, as described in sections 991 through 994 of the Internal Revenue Code of 1986, inclusive, a foreign sales corporation, as described in sections 921 through 927 of the Internal Revenue Code of 1986, inclusive, or any member that is an export trade corporation, as described in sections 970 through 971 of the Internal Revenue Code of 1986, inclusive;

"(D) Any member not described in subparagraphs (A), (B), or (C) of this paragraph shall include its business income that is effectively connected, or treated as effectively connected under the provisions of the Internal Revenue Code of 1986 with the conduct of a trade or business within the United States and, for that reason, subject to federal income tax;

"(E) Any member that is a resident of a country that does not have a comprehensive income tax treaty with the United States and earns more than 20% of its income, directly or indirectly, from intangible property or service-related activities that are deductible against the business income of other members of the water's-edge group, to the extent of that income and the apportionment factors related thereto; and

"(F)(i) The entire income and apportionment factors of any member that is doing business in a tax haven defined as being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards.

"(ii) If the member's business activity within a tax haven is entirely outside the scope of the

laws, provisions, and practices that cause the jurisdiction to meet the criteria of a tax haven, as that term is defined in § 47-1801.04(49), the activity of the member shall be treated as not having been conducted in a tax haven.

"(b) An election to report District tax based on worldwide unitary combined reporting is effective only if made on a timely filed original return for a tax year by every member of the unitary business subject to tax under this chapter.

"(c) At the discretion of the Chief Financial Officer:

"(1) A worldwide unitary combined reporting election may be disregarded, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter; and

"(2) Worldwide unitary combined reporting may be mandated, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter, or if a person otherwise not included in the water's-edge combined group was availed of with a substantial objective of avoiding state income tax.

"(d)(1) A worldwide unitary combined reporting election is binding for and applicable to the tax year it is made and all tax years thereafter for a period of 10 years. It may be withdrawn or reinstituted after withdrawal, before the expiration of the 10-year period, only upon written request for reasonable cause based on extraordinary hardship due to unforeseen changes in state tax statutes, law, or policy, and only with the written authorization of the Chief Financial Officer.

"(2) An election shall constitute consent to the reasonable production of documents and taking of depositions in accordance with District law.

"(3) If the Chief Financial Officer grants a withdrawal of election pursuant to paragraph (1) of this subsection, he or she shall impose reasonable conditions necessary to prevent the evasion of tax or to clearly reflect income for the election period before or after the withdrawal.

"(4) Upon the expiration of the 10-year period, a taxpayer may withdraw from the worldwide unitary combined reporting election. Withdrawal must be made in writing within one year of the expiration of the election and is binding for a period of 10 years, subject to the same conditions as applied to the original election.

"(e) The Chief Financial Officer shall develop rules governing the impact, if any, on the scope or application of a worldwide unitary combined reporting election, including termination or deemed election, resulting from a change in the composition of the unitary group, the combined group, the taxpayer members, and any other similar change."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

§ 47-1810.08. Accounting rules; future deductions.

(a) If the enactment of combined reporting requirements for unitary businesses results in an increase to a combined group's net deferred tax liability, the combined group shall be entitled to a deduction to the extent determined under subsection (b) of this section. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with either generally accepted accounting principles or international financial reporting standards, as of [September 14, 2011], shall be eligible for this deduction. To the extent the deduction would produce a net operating loss in any tax year, the unused deduction may be carried forward to each succeeding tax year indefinitely by the combined group and deducted without regard to any limitation

(b) For the 7-year period beginning with the 5th year of the combined filing, a combined group shall be entitled to a deduction equal to 1/7th of the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability, as computed at the time of enactment in accordance with either generally accepted accounting principles or international financial reporting standards, that would result from the imposition of the combined reporting requirements but for the deduction provided under this section. The amount of the deduction shall in no case exceed the amount necessary to offset any increase in net deferred tax liability, as computed in accordance with either generally accepted accounting principles or international financial reporting standards, that would result from the imposition of all of the provisions of this chapter but for the deduction provided under this section.

(c) For the purposes of this section, the term "net deferred tax liability" shall mean the net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with either generally accepted accounting principles or international financial reporting standards.

(Sept. 14, 2011, D.C. Law 19-21, § 8002(d), 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, § 114(i), 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "this chapter" for "this act" in the second sentence of (b).

Temporary Amendment of Section. — Section 302(d) of D.C. Law 19-226 amended this section to read as follows:

"§ 47-1810.08. Accounting rules; future deductions.

"(a) If the enactment of combined reporting requirements for unitary businesses results in an increase to a combined group's net deferred tax liability, the combined group shall be entitled to a deduction to the extent determined under subsection (b) of this section. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with generally accepted accounting principles, as of September 14, 2011 shall be eligible for this deduction. To the extent the deduction would produce a net operating loss in any tax year, the unused deduction may be carried forward to each succeeding tax year indefinitely by the combined group and deducted without regard to any limitation.

"(b) For the 7-year period beginning with the 5th year of the combined filing, a combined group shall be entitled to a deduction equal to 1/7th of the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability, as computed at the time of enactment in accordance with generally accepted accounting principles, that would result from the imposition of the combined reporting requirements but for the deduction provided under this section. The amount of the deduction shall in no case exceed the amount necessary to offset any increase in net deferred tax liability, as computed in accordance with generally accepted accounting principles, that would result from the imposition of all of the provisions of combined reporting but for the deduction provided under this section.

"(c) For the purposes of this section, the term 'net deferred tax liability' shall mean the net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles."

Section 303 of D.C. Law 19-226 provided that § 302 of the act shall apply for taxable years beginning after December 31, 2010.

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation. — For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

For temporary amendment of section, see § 302(d) of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478), applicable for taxable years beginning after December 31, 2010.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of

2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter XII. Assessment and Collection; Time of Payment.

§ 47-1812.08. Withholding of tax.

(a) *Income of foreign corporations or unincorporated business.* — Whenever the Council of the District of Columbia shall deem it necessary in order to satisfy the District's claim for a tax payable by any foreign corporation or unincorporated business, it may, by rules and regulations, require any person subject to the jurisdiction of the District to withhold and pay to the Mayor an amount not in excess of 5% of all income payable by such person to such foreign corporation or unincorporated business. After such foreign corporation or unincorporated business shall have filed all returns required under this subchapter, and the same shall have been audited, the Mayor shall refund any overpayment to the taxpayer.

(b) *Wages; method of determination.* —

(1) Every employer making payment of wages on or after October 1, 1956, to any employee as defined in this chapter, shall deduct and withhold a tax upon such wages, such tax to be determined by one of the following methods, to be elected by the employer, subject to the approval of the Mayor, with respect to any employee:

(A) In accordance with a percentage method of withholding similar in principle to that under § 3402 of the Internal Revenue Code of 1986 (§ 3402 of Title 26, United States Code), to be included in regulations;

(B) In accordance with tables similar in principle to those contained in § 3402 of the Internal Revenue Code of 1986, to be included in regulations;

(C) Repealed; or

(D) By such other method as may be prescribed in regulations.

(2)(A) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(B) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1st of such year, whichever is the later.

(C) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(D) The Council of the District of Columbia may, by regulations, authorize employers:

(i) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(ii) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(iii) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount that would be required to be deducted and withheld during such quarter if the payroll period of the employee were quarterly.

(E) The Council of the District of Columbia is authorized to provide by regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under this section in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered the tax required to be deducted and withheld under this section.

(c) *Overlapping pay periods; multiple employers.* —

(1) If payment of wages is made to an employee by an employer:

(A) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer;

(B) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer;

(C) With respect to a period beginning in 1 and ending in another calendar year; or

(D) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee.

(2) The manner of withholding and the amount to be deducted and withheld under this section shall be determined in accordance with regulations promulgated by the Council of the District of Columbia under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

(d) *Included and excluded wages.* — If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

(e) *Exemptions.* —

(1) An employee receiving wages shall on any day be entitled to the withholding exemptions allowed under this chapter, unless the Mayor determines that an alternative withholding method is warranted under paragraphs (9) or (11) of this subsection.

(2) Every employee shall, on or before October 1, 1956, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before October 1, 1956, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1st or July 1st of each year, which occurs at least 30 days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the exemptions to which the employee is entitled on such day, the employee shall in such cases and at such times as the Mayor may prescribe, furnish the employer with a withholding exemption certificate relating to the exemptions which he claims with respect to such next taxable year, which shall in no event exceed the exemptions to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the withholding exemptions to which the employee is entitled is less than the withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within 10 days thereafter, furnish the employer with a new withholding exemption certificate relating to the withholding exemptions which the employee then claims, which shall in no event exceed the exemptions to which he is entitled on such day. If, on any day during the calendar year, the withholding exemptions to which the employee is entitled is greater than the withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the withholding exemptions which the employee then claims, which shall in no event exceed the exemptions to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the Council of the District of Columbia may by regulations prescribe.

(8) For periods beginning after December 31, 2011, an employee shall be entitled to additional withholding exemptions under this subsection with respect to payment of wages equal to a number determined by dividing by $1,370 his or her estimated itemized deductions.

(9) An employer shall base withholding for the employee on zero withholding exemptions if the Mayor notifies an employer that:

(A) An employee has an unpaid tax liability;

(B) An employee failed to file a required District of Columbia income tax return; or

(C) An employee is subject to a tax refund interception request.

(10) If the conditions of paragraphs (9)(A), (B), and (C) of this subsection no longer apply, the employer may apply to the Mayor to authorize an increase in the number of withholding exemptions. Upon approval, the Mayor may authorize an increase in the number of withholding exemptions to the level at which they would not have resulted in an underpayment of taxpayer's most recent income tax return.

(11)(A) An exemption certificate shall be invalid if it:

(i) Does not contain the information required; or

(ii) Contains false or fraudulent information.

(B) An exemption certificate shall be valid if it states:

(i) A number of exemptions if it is less than the number of exemptions to which the individual is entitled under this chapter; or

(ii) A number of additional exemptions less than or equal to the fraction rounded down to the nearest whole number:

(I) The numerator of which equals the excess of the total of estimated itemized deductions, alimony payments, allowable child care expenses, qualified retirement contributions, business losses, and employer business expenses over the standard deduction allowance; and

(II) The denominator of which equals the amount allowed for each exemption under this chapter for the applicable tax year.

(f) *Failure to withhold or pay amounts withheld.* —

(1) Any sum or sums withheld in accordance with the provisions of this section shall be deemed to be, and shall be, held in trust by the employer for the District of Columbia.

(2) The District of Columbia shall have a lien upon all the property of any employer who fails to withhold or pay over to the Mayor sums required to be withheld under this section. If the employer withholds but fails to pay over the amounts withheld to the Mayor the lien shall accrue on the date the amounts were withheld. If the employer fails to withhold, the lien shall accrue on the date the amounts were required to be withheld. The liens referred to in this paragraph shall constitute a preferred claim, having priority over all other liens or security interests of whatever kind and however created. If property of an employer is seized under distraint provisions, neither the United States Marshal, nor a receiver, assignee or any other officer shall sell the property without first determining from the Mayor the amounts due and payable by said employer, and if there be any amounts due, owing or unpaid, it shall be the duty of such officer to first pay to the Mayor the said amounts out of the

proceeds of such sale before making any payment to any judgment creditor or other claimants of whatsoever kind or nature.

(g) *Statement to be furnished employee.* —

(1)(A) Every person required to deduct and withhold from an employee a tax under this section, or who would have been required to deduct and withhold a tax under this section if the employee had claimed no more than 1 withholding exemption, shall furnish to each such employee in respect to the wages paid by such person to such employee during the calendar year, on or before January 31st of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the following:

(i) The name and address of such person;

(ii) The name and address of the employee and his social security account number;

(iii) The total amount of wages as defined in this chapter; and

(iv) The total amount deducted and withheld as tax under this section.

(B) The statement required to be furnished by this subsection in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form, as the Council of the District of Columbia may by regulation prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the Council of the District of Columbia shall constitute the return required to be made in respect to such wages.

(2) The Council of the District of Columbia may promulgate regulations providing for reasonable extensions of time, not in excess of 30 days, to employers required to furnish statements under this subsection.

(h) *Liability for tax withheld.* — An employer shall be liable for the payment of tax required to be deducted and withheld under this section. Such tax shall be paid to the Mayor and shall not be paid to any other person.

(i) *Declaration and payment of estimated tax.* —

(1) Every person residing or domiciled in the District at the times prescribed in paragraph (4) of this subsection shall, at these times, make declaration of his or her estimated tax for the taxable year if the person can reasonably be expected to receive gross income not subject to the withholding provisions of this section that will result in a tax liability of more than $100. This requirement shall not apply to any elective officer of the government of the United States, or any employee on the staff of an elected officer in the legislative branch of the government of the United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government whose appointment to the office held by him or her was by the President of the United States, and subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States unless the officers or Justices are domiciled within the District at any time during the taxable year.

(2) In the declaration required under paragraph (1) of this subsection, the individual shall state:

(A) The amount which he estimates as the amount of income tax due under this chapter for the taxable year;

(B) The amount which he estimates as the credit for tax withheld for the taxable year under this chapter;

(C) The excess of the amount estimated under subparagraph (A) of this paragraph over the amount estimated under subparagraph (B) of this paragraph, which excess for purposes of this section shall be considered the estimated tax for the taxable year; and

(D) Such other information as may be prescribed in regulations promulgated by the Council of the District of Columbia.

(3) In the case of married individuals (or domestic partner who filed under § 47-1805.01(f)), a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if the married individuals are separated under a decree of divorce or of separate maintenance (or domestic partner who filed under § 47-1805.01(f) has terminated the domestic partnership in accordance with § 32-702(d)), or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either spouse (or domestic partner who filed under § 47-1805.01(f)), or may be divided between them.

(4) The declaration required under paragraph (1) of this subsection shall be filed with the Mayor on or before April 15th of the taxable year, except that if the requirements of paragraph (1) of this subsection are first met: (A) after April 1st and before June 2nd of the taxable year, the declaration shall be filed on or before June 15th of the taxable year; (B) after June 1st and before September 2nd of the taxable year, the declaration shall be filed on or before September 15th of the taxable year; or (C) after September 1st of the taxable year, the declaration shall be filed on or before January 15th of the succeeding taxable year; provided, that the declaration required to be filed during 1956 may be filed not later than October 15, 1956, if the requirements of paragraph (1) of this subsection are fulfilled at any time prior to October 1, 1956.

(5) An individual may make amendments of a declaration filed during the taxable year under this subsection, under regulations prescribed by the Council of the District of Columbia.

(6) If on or before January 15th of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then under regulations prescribed by the Council of the District of Columbia:

(A) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15th, such return shall, for the purposes of this section, be considered as such declaration; and

(B) If the tax shown on the return, reduced by the credits under this chapter, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by this subsection to be filed on or before such January 15th.

(7) The Council of the District of Columbia may promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extensions shall be for more than 6 months.

(8) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(9) The provisions of § 47-1805.04 shall apply to a declaration of estimated tax.

(10) Payment of the estimated tax, or any installment thereof, shall be considered payment on account of the tax for the taxable year.

(j) *Liability for 1956 tax.* — One-half of the liability for the income tax imposed by this chapter for the calendar year 1956, or the fiscal year of a taxpayer beginning during such calendar year, upon any resident of the District (other than fiduciaries) shall be discharged. The remainder of the total amount of the income tax due as shown on the taxpayer's return shall be paid to the Collector on the 15th of April, 1957, or if the return be made on the basis of a fiscal year the remainder of the total amount of such tax shall be paid on the 15th day of the 4th month following the close of the fiscal year.

(k) *Rate of interest.* — Notwithstanding any other provisions of this chapter, interest shall be assessed on deficiencies and late payments of income tax withheld or required to be withheld at source by an employer as provided for in this section at the rate of one and one half percent per month or fraction thereof from the date prescribed for payment of the tax until paid.

(l) *Withholding from lottery winnings.* —

(1) For the purposes of this subsection, the term:

(A) "Constructive receipt" or "constructively received" means that payments of lottery winnings, although not actually within a taxpayer's possession, are deemed to be received by the payee and subject to District tax in the taxable year during which the lottery winner is determined by Powerball or other lottery drawing.

(B) "Lottery winnings" means winnings which are subject to withholding as defined in section 3402(q) of the Internal Revenue Code of 1986, whether as a lump sum or annuitized payment.

(C) "Payment" means the payment of lottery winnings.

(D) "Payor" means a person responsible to make a payment subject to withholding under section 3402(q) of the Internal Revenue Code of 1986.

(2) In making payments, whether actually or constructively received by the payee, of lottery winnings taxable under § 47-1803.02, [§] 47-1807.02, or [§] 47-1808.02, the District of Columbia Lottery and Charitable Games Control Board, or any payor, shall deduct and withhold from such payments an amount equal to the tax on such payments computed at the highest rate of tax under § 47-1806.03, [§] 47-1807.02, or [§] 47-1808.03, as applicable, in accordance with procedures to be established by the Chief Financial Officer.

(3) Except as provided in paragraph (4) of this subsection, the withholding required by this section shall apply to any of the following payments:

(A) A lump sum payment in the year the payment is made; or

(B) A payment of an annuitized amount in the year the payment is made by any payor to a payee.

(4) The withholding required by this subsection shall not apply to a payment to a nonresident, corporation, partnership, or limited liability company if the individual, shareholder, partner, or member of such entities provides the payor with a statement and documentary evidence, subject to review and approval by the Chief Financial Officer, that the income earned is not subject to District tax.

(m)(1) Except as provided in paragraph (2) of this subsection, if a resident payee receives a payment from a retirement plan or retirement account that is a lump-sum distribution, District income tax shall be withheld on the lump-sum distribution by the payor at the highest District individual income tax rate that is in effect at the time of the distribution.

(2) Paragraph (1) of this subsection shall not apply to:

(A) Any portion of a lump-sum payment that was previously subject to tax;

(B) An eligible rollover distribution that is effected as a direct trustee-to-trustee transfer; or

(C) A rollover from an individual retirement account to a traditional or Roth individual retirement account that is effected as a direct trustee-to-trustee transfer.

(3) For the purposes of this subsection, the term:

(A) "Lump-sum distribution" means a payment from a payor to a resident payee of the resident payee's entire account balance, exclusive of any other tax withholding and any administrative charges and fees.

(B) "Retirement account" or "retirement plan" means:

(i) A qualified employee plan;

(ii) A qualified employee annuity plan;

(iii) A defined contribution plan;

(iv) A defined benefit plan;

(v) A tax-sheltered annuity plan;

(vi) An individual retirement account;

(vii) Any combination of the plans and account listed in sub-subparagraphs (i) through (vi) of this subparagraph; or

(viii) Any similarly situated account or plan as defined by the Internal Revenue Code of 1986.

(4) This subsection shall apply within 5 days of February 24, 2012.

(July 16, 1947, 61 Stat. 353, ch. 258, art. I, title XII, § 8; Mar. 31, 1956, 70 Stat. 72-77, ch. 154, § 11; Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-554,§ 8(a); Mar. 6, 1979, D.C. Law 2-158, § 4, 25 DCR 7002; Sept. 13, 1980, D.C. Law 3-92, § 502(b), 27 DCR 3390; June 11, 1982, D.C. Law 4-118, § 116, 29 DCR 1770; July 24, 1982, D.C. Law 4-131, §§ 105, 108(c), (d), 29 DCR 2418; June 24, 1987, D.C. Law 7-9, § 2(n), 34 DCR 3283; Oct. 1, 1987, D.C. Law 7-29, § 2(l)(1)-(3), 34 DCR 5097; Sept. 21, 1988, D.C. Law 7-141, § 2(d), (e), 35 DCR 5398; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(y), 48 DCR 334; Mar. 14, 2007, D.C. Law 16-292, § 2(e), 54

DCR 1080; Sept. 12, 2008, D.C. Law 17-231, § 41(m), 55 DCR 6758; Mar. 3, 2010, D.C. Law 18-108, § 2(c), 57 DCR 22; Sept. 24, 2010, D.C. Law 18-223, §§ 7092, 7152, 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, §§ ; Sept. 20, 2012, D.C. Law 19-168, § 7022, 59 DCR 8025.)

Section references. — This section is referenced in § 47-4214, § 47-4422, § 47-4423, and § 47-4491.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 rewrote (m).

Temporary Amendment of Section.

Section 2 of D.C. Law 19-135 amended subsec. (m) to read as follows:

"(m)(1) Except as provided in paragraph (2) of this subsection, if a resident payee receives a payment from a retirement plan or retirement account that is a lump-sum distribution, District income tax shall be withheld on the lump-sum distribution by the payor at the highest District individual income tax rate that is in effect at the time of the distribution.

"(2) Paragraph (1) of this subsection shall not apply to:

"(A) Any portion of a lump-sum payment that was previously subject to tax;

"(B) An eligible rollover distribution that is effected as a direct trustee to trustee transfer; or

"(C) A rollover from an individual retirement account to a traditional or Roth individual retirement account that is effected as a direct trustee to trustee transfer.

"(3) For the purposes of this subsection, the term:

"(A) 'Lump-sum distribution' means a payment from a payor to a resident payee of the resident payee's entire account balance, exclusive of any other tax withholding and any administrative charges and fees.

"(B) 'Retirement account' or 'retirement plan' means:

"(i) A qualified employee plan;

"(ii) A qualified employee annuity plan;

"(iii) A defined contribution plan;

"(iv) A defined benefit plan;

"(vi) An individual retirement account;

"(vii) Any combination of the plans and account listed in sub-subparagraphs (i) through (vi) of this subparagraph; or

"(viii) Any similarly situated account or plan as defined by the Internal Revenue Code of 1986.

"(4) This subsection shall apply within 5 days of the effective date of the Targeted Retirement Distribution Withholding Emergency Act of 2012, effective February 24, 2012 (D.C. Act 19-316; 59 DCR 1709).".

Section 4(a) of D.C. Law 19-135 provided that the act shall expire after 225 days of its having taken effect.

Temporary Amendment of Section. — Section 2 of D.C. Law 19-219 deleted the last sentence in (g)(1)(B); and added subsection (n) to read as follows:

"(n)(1) Beginning for statements due after December 31, 2011, each employer or payor required under this section to withhold income tax for an employee or a person who receives a payment subject to withholding ("payee") shall prepare a statement for each employee or payee that shows for the previous calendar year any information that the Chief Financial Officer requires by regulation or guidance.

"(2)(A) An employer or payor required to submit the statements pursuant to paragraph (1) of this subsection shall submit one copy of the statement for each employee or payee to the Chief Financial Officer by January 31 of each year.

"(B) Except as provided by subparagraph (C) of this paragraph, if the number of statements that an employer or payor is required to submit is 25 or more, the employer or payor shall submit the statements in an electronic format, as prescribed by the Chief Financial Officer.

"(C) The Chief Financial Officer may waive the requirement that an employer or payor submit statements in electronic format if the Chief Financial Officer determines that the requirement will result in undue hardship to the employer or payor."

Section 4(b) of D.C. Law 19-219 provided that the act shall expire after 225 days of its having taken effect.

Temporary Amendment of Section. — Section 105 of D.C. Law 19-226 amended this section as follows:

(a) Subsection (b)(1) is amended by adding a new subparagraph (E) to read as follows:

"(E) For the method of withholding after December 31, 2011, no allowance for the standard deduction shall be permitted."

(b) Subsection (e)(8) is amended to read as follows:

"(8) For periods beginning after December 31, 2011, an employee shall be entitled to additional withholding exemptions under this subsection with respect to payment of wages equal to a number determined by dividing by the personal exemption provided under § 47-1806.02(i) the excess of:

"(A) His or her estimated itemized deductions; over

"(B) The applicable standard deduction amount specified in § 47-1801.04(26)."

Section 402(b) of D.C. Law 19-226 provided that the act shall expire after 225 days of its having taken effect.

Emergency legislation.

For temporary (90 day) amendment of section, see § 7022 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7022 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary amendment of (b) and (e)(8), see § 105 of the Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 12, 2012, 59 DCR 12478).

For temporary amendment of (g)(1)(B) and addition of (n), see § 2 of the Income Tax Withholding Statements Electronic Submission Emergency Act of 2012 (D.C. Act 19-506, October 26, 2012, 59 DCR 12770), applicable as of October 6, 2012.

For temporary amendment of section, see § 2 of the Income Tax Withholding Statements Electronic Submission Congressional Review Emergency Act of 2012 (D.C. Act 19-601, January 14, 2013, 60 DCR 1038), applicable as of January 4, 2013.

For temporary amendment of (b) and (e), see § 105 of the Fiscal Year 2013 Budget Support Technical Clarification Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-604, January 14, 2013, 60 DCR 1045), applicable as of January 10, 2013.

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 47-1812.11d. Anacostia River Clean Up and Protection Fund tax check-off.

(a) For the 2009 tax year, and for each subsequent tax year, there shall be provided on the District individual income tax return a voluntary check-off that indicates that an individual may contribute a minimum donation or gift of $1 to the Anacostia River Clean Up and Protection Fund ("Fund") established by [§ 8-102.05(a)]. The contribution shall reduce any refund owed to the individual taxpayer or increase the tax owed by the individual taxpayer on the taxpayer's tax return. The funds generated from the tax check-off shall be deposited in the Fund, except that any cost incurred by the Mayor in collecting, processing, accounting, or disbursing the funds generated by the tax check-off shall be reimbursed to the Mayor from the funds generated by the tax check-off.

(b)(1) Except as provided in paragraph (2) of this subsection, any unpaid District tax liability on an individual income tax return shall render any voluntary tax check-off election void. Any amount paid for the purpose of contributing to the Fund shall be used first to satisfy any unpaid tax liability in whole or in part.

(2) If there is any amount that remains after satisfaction of the unpaid tax liability, the amount shall be deposited in the Fund.

(c) The Mayor shall include with the individual tax return package a description of the purposes for which the Fund was established and projects for which the Fund may be used.

(Sept. 23, 2009, D.C. Law 18-55, § 9(a)(3), 56 DCR 5703; Sept. 26, 2012, D.C. Law 19-171, § 119, 59 DCR 6190.)

Section references. — This section is referenced in § 8-102.05.

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Subchapter XVII. Qualified High Technology Companies.

§ 47-1817.01. Definitions.

For the purposes of this chapter, the term:

(1)(A) "Qualified asset" means a:

(i) Qualified stock;

(ii) Qualified partnership interest; or

(iii) Qualified business property.

(B) A qualified asset shall include property which was a qualified asset in the hands of a prior holder.

(2)(A) "Qualified business property" means tangible property if:

(i) The property was acquired by the taxpayer by purchase, as defined in section 179(d)(2) of the Internal Revenue Code of 1986, after December 31, 2000;

(ii) The original use of the property commences with the taxpayer; and

(iii) Substantially all of the use of the property was in a Qualified High Technology Company.

(B) This paragraph shall apply to real property which is substantially improved by the taxpayer before January 1, 2003, and any land on which the property is located.

(C) For the purposes of subparagraph (B) of this paragraph, real property shall be substantially improved by the taxpayer if, during any 24-month period beginning after December 31, 2000:

(i) Additions to basis with respect to the property in the hands of the taxpayer exceed the greater of:

(I) An amount equal to the adjusted basis of the property at the beginning of the 24-month period in the hands of the taxpayer; or

(II) $5,000; and

(ii) At least 51% of the additions to basis represent improvements which facilitate the conduct of a Qualified High Technology Company on the premises, including improvements to electrical wiring or telecommunications facilities serving the building.

(3) "Qualified capital gain" means gain recognized on the sale or exchange of a capital asset or property used in a trade or business, as defined in § 47-1801.04. The term "qualified capital gain" shall not include gain which is:

(A) Treated as ordinary income under sections 1245 or 1250 of the Internal Revenue Code of 1986 if section 1250 applied to all depreciation rather than additional depreciation;

(B) Attributable to real property or an intangible asset which is not an integral part of a Qualified High Technology Company's business operations in the District; or

(C) Attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

(4) "Qualified employee" means a person who is employed in the District by a Qualified High Technology Company.

(5)(A) "Qualified High Technology Company" means:

(i) An individual or entity organized for profit and maintaining an office, headquarters, or base of operations in the District of Columbia;

(ii) Having 2 or more employees in the District; and

(iii) Deriving at least 51% of its gross revenues earned in the District from:

(I) Internet-related services and sales, including website design, maintenance, hosting, or operation; Internet-related training, consulting, advertising, or promotion services; the development, rental, lease, or sale of Internet-related applications, connectivity, or digital content; or products and services that may be considered e-commerce;

(II) Information and communication technologies, equipment and systems that involve advanced computer software and hardware, data processing, visualization technologies, or human interface technologies, whether deployed on the Internet or other electronic or digital media. Such technologies shall include operating and applications software; Internet-related services, including design, strategic planning, deployment, and management services and artificial intelligence; computer modeling and simulation; high-level software languages; neural networks; processor architecture; animation and full-motion video; graphics hardware and software; speech and optical character recognition; high-volume information storage and retrieval; data compression; and multiplexing, digital signal processing, and spectrum technologies;

(III) Advanced materials and processing technologies that involve the development, modification, or improvement of one or more materials or methods to produce devices and structures with improved performance characteristics or special functional attributes, or to activate, speed up, or otherwise alter chemical, biochemical, or medical processes. Such materials and technologies shall include metal alloys; metal matrix and ceramic composites; advanced polymers; thin films; membranes; superconductors; electronic and photonic materials; bioactive materials; bioprocessing; genetic engineering; catalysts; waste emissions reduction; pharmaceuticals; and waste processing technologies;

(IV) Engineering, production, biotechnology and defense technologies that involve knowledge-based control systems and architectures; advanced fabrication and design processes, equipment, and tools; or propulsion, navigation, guidance, nautical, aeronautical and astronautical ground and airborne systems, instruments, and equipment. Such technologies shall include: computer-aided design and engineering; computer-integrated manufacturing; robotics and automated equipment; integrated circuit fabrication and test equipment; sensors; biosensors; signal and image processing; medical and

scientific instruments; precision machining and forming; biological and genetic research equipment; environmental analysis, remediation, control, and prevention equipment; defense command and control equipment; avionics and controls; guided missile and space vehicle propulsion units; military aircraft; space vehicles; and surveillance, tracking, and defense warning systems; or

(V) Electronic and photonic devices and components for use in producing electronic, optoelectronic, mechanical equipment and products of electronic distribution with interactive media content. Such technologies shall include microprocessors; logic chips; memory chips; lasers; printed circuit board technology; electroluminescent, liquid crystal, plasma, and vacuum fluorescent displays; optical fibers; magnetic and optical information storage; optical instruments, lenses, and filters; simplex and duplex data bases; and solar cells.

(B) "Qualified High Technology Company" shall not include:

(i) An individual or entity that derives 51% or more of its gross revenues from the operation in the District of:

(I) A retail store; or

(II) An electronic equipment facility that is primarily occupied, or intended to be occupied, by electronic and computer equipment that provides electronic data switching, transmission, or telecommunication functions between computers, both inside and outside the facility;

(ii) A professional athletic team, as defined in § 47-2002.05(a)(3); or

(iii) A business entity located in the DC Ballpark TIF Area, as defined in [§ 2-1217.12a(a)].

(6) "Qualified partnership interest" means a capital or profits interest in a partnership, formed under the laws of the District of Columbia or any state of the United States of America, which is originally issued after December 31, 2000, if:

(A) The interest is acquired by the taxpayer from the partnership solely in exchange for cash;

(B) On the date of acquisition, the partnership was a Qualified High Technology Company (or, in the case of a new partnership, the partnership was organized for purposes which would qualify it as a Qualified High Technology Company); and

(C) During substantially all of the taxpayer's holding period for the interest, the partnership qualified as a Qualified High Technology Company.

(7) "Qualified stock" means stock in a corporation, formed under the laws of the District of Columbia or any state of the United States of America, which is originally issued after December 31, 2000, if:

(A) The stock is originally issued to the taxpayer, directly or through an underwriter, solely in exchange for cash;

(B) On the date of issuance, the corporation was a Qualified High Technology Company (or, in the case of a new corporation, the corporation was being organized for purposes which would qualify it as a Qualified High Technology Company); and

(C) During substantially all of the taxpayer's holding period for the stock, the corporation qualified as a Qualified High Technology Company.

(Apr. 3, 2001, D.C. Law 13-256, § 101(a)(2), 48 DCR 730; Apr. 8, 2005, D.C. Law 15-320, § 110(c), 52 DCR 1757; Mar. 5, 2013, D.C. Law 19-211, § 2(c), 59 DCR 13281.)

Section references. — This section is referenced in § 2-1221.01, § 10-803.01, § 47-462, and § 47-1818.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-211 substituted "employees in the District" for "employees" in (5)(A)(ii); and substituted "gross revenues earned in the District" for "gross revenues" in (5)(A)(iii).

Legislative history of Law 19-211. — See note to § 47-1803.02.

§ 47-1817.06. Tax on Qualified High Technology Companies.

(a)(1) Notwithstanding any other provision of this chapter, and in lieu of the tax on taxable income imposed by § 47-1807.02, subject to the credits applicable thereto, a tax on taxable income at a rate of 6% shall be imposed upon Qualified High Technology Companies which are corporations, except as provided for in paragraph (2) of this subsection.

(2)(A) A Qualified High Technology Company certified pursuant to § 47-1805.05:

(i) Before January 1, 2012, shall not be subject to the tax imposed by this chapter for 5 years after the date that the Qualified High Technology Company commences business in the District; and

(ii) On or after January 1, 2012, shall not be subject to the tax imposed by this chapter for 5 years after the date that the Qualified High Technology Company has taxable income.

(B) The total amount that each Qualified High Technology Company may receive in exemptions under this paragraph shall not exceed $15 million.

(b) The transfer of ownership of a Qualified High Technology Company shall not affect eligibility under this section.

(c) The Mayor may issue regulations to carry out the provisions of this section.

(Apr. 3, 2001, D.C. Law 13-256, § 403(b), 48 DCR 730; Mar. 5, 2013, D.C. Law 19-211, § 2(d), 59 DCR 13281.)

Section references. — This section is referenced in § 47-340.26, § 47-1817.02, § 47-1817.03, § 47-1817.04, § 47-1817.05, § 47-1818.02, § 47-1818.06, and § 47-4630.

Effect of amendments. — The 2013 amendment by D.C. Law 19-211 rewrote (a)(2).

Legislative history of Law 19-211. — See note to § 47-1803.02.

Subchapter XVIII. Qualified Social Electronic Commerce Companies.

§ 47-1818.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Abatement period" means from the effective date of this subchapter through the date when an abatement provided for in this subchapter is

exhausted or forfeited, or otherwise expires in accordance with this subchapter.

(2) "BAS agreement" means a city-wide business activity strategy agreement between the District and a Qualified Social E-Commerce Company as specified in § 47-1818.03(b).

(3) "Disrupted corridor" means an area that is distressed due to the lack of amenities, transportation, or commerce, disrupted due to construction operations, or is otherwise determined by the Mayor to be a distressed or disrupted area.

(4) "New hire" or "newly hired" means an individual who was not employed by a Qualified Social E-Commerce Company before calendar year 2010 and was, or is:

(A) Hired to fill a position of indefinite duration consisting of a minimum work week of 35 hours for not less than 50 weeks per year;

(B) Not:

(i) A member of the board of directors of the Qualified Social E-Commerce Company;

(ii) A direct or indirect owner of more than 5% of the Qualified Social E-Commerce Company;

(iii) A spouse or dependent, as these terms are defined in section 152 of the Internal Revenue Code of 1986, approved October 22, 1986 (Pub. L. No. 99-514; 100 Stat. 2085), of any individual defined in sub-subparagraphs (i) and (ii) of this subparagraph; or

(iv) Hired under the conditions set forth in § 47-1817.03(b)(3); and

(C) Employed by a Qualified Social E-Commerce Company for at least 6 months in the District of Columbia.

(5) "New hire wage credit" means a credit equal to 10% of the wages paid during the first 24 calendar months of employment to a newly hired employee hired after December 31, 2009, and before January 1, 2016, accrued annually up to $5,000 per new hire per tax year, up to a maximum amount of the new hire wage credit cap.

(6) "New hire wage credit cap" means a ceiling of $15 million.

(7) "Qualified Social E-Commerce Company" means a company that:

(A) Is a Qualified High Technology Company;

(B) Is engaged primarily in the business of marketing or the promoting of retail or service businesses by delivering or providing members or users with access to discounts or other commerce-based benefits; and

(C) Hired at least 850 persons to work in the District of Columbia after December 31, 2009, and before January 1, 2012.

(8) "Qualified High Technology Company" shall have the same meaning as provided in § 47-1817.01(5).

(9) "Qualified real property" means real property located in the District of Columbia on which a commercial office building totaling no less than 200,000 square feet is constructed, or substantially rehabilitated, and equipped after June 1, 2012, and which is owned or leased by a Qualified Social E-Commerce Company for use as a primary corporate headquarters.

(10) "Real property" shall have the same meaning as provided in § 47-802(1).

(11)(A) "Related entity" means with respect to any Qualified Social E-Commerce Company any other person or entity that is a Qualified High Technology Company and is directly or indirectly controlling, controlled by, or under common control with the Qualified Social E-Commerce Company or is a successor to the Qualified Social E-Commerce Company by merger, consolidation, or operation of law.

(B) For the purposes of this paragraph, the terms "controlling," "controlled by," and "under common control with" mean the possession, directly or indirectly, or the power to direct, or cause the direction of, the management and policies of a Qualified Social E-Commerce Company, whether through ownership of voting securities, membership interests, or partnership interests by contract or otherwise, or the power to elect at least 50% of the directors, managers, or partners exercising similar authority with respect to the Qualified Social E-Commerce Company.

(12) "Resident" means an individual whose principal residence is located in the District of Columbia and who is subject to District of Columbia personal income tax, or is a new hire who becomes a resident within 180 days of his or her new hire start date.

(13) "Resident hiring factor" means the applicable percentage contained in this paragraph if a Qualified Social E-Commerce Company achieves, or has achieved, the following annual resident new hire proportion goals during calendar years 2010 through 2015:

(A) One hundred percent if at least 50% of new hires are residents in a calendar year.

(B) Seventy-five percent if at least 40% but less than 50% of new hires are residents in a calendar year.

(C) Fifty percent if less than 40% of new hires are residents in a calendar year.

(14) "Resident employment credit" means:

(A) The amount of $17.5 million, if a Qualified Social E-Commerce Company maintains the proportion of newly hired employees as residents at or above 50% during each one-year period, beginning October 1, 2014, through September 30, 2015, and continuing each year through to the end of the abatement period;

(B) The amount of $13.125 million, if a Qualified Social E-Commerce Company maintains the proportion of newly hired employees as residents at or above 40% during each one-year period, beginning October 1, 2014, through September 30, 2015, and continuing each year through to the end of the abatement period; and

(C) The amount of $9 million, if a Qualified Social E-Commerce Company maintains the proportion of newly hired employees as residents at less than 40% during any one-year period, beginning October 1, 2014, through September 30, 2015, and continuing through to the end of the abatement period.

(15) "STEM" means the fields of study in the categories of science, technology, engineering, and mathematics.

(16) "Unrelated entity" means any person or entity that is not a related entity.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Section references. — This section is referenced in § 47-1818.02.

Legislative history of Law 19-174. — Law 19-174, the "Social E-Commerce Job Creation Tax Incentive Act of 2012," was introduced in Council and assigned Bill No. 19-755. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 19, 2012, it was assigned Act No. 19-398 and transmitted to Congress for its review. D.C. Law 19-174 became effective on Oct. 9, 2012.

§ 47-1818.02. Tax credits to Qualified Social E-Commerce Companies.

(a) Subject to subsection (c) of this section and § 47-1818.04, the real property taxes imposed by Chapter 8 of this title with respect to qualified real property shall be abated up to the amount of the new hire wage credit, beginning in fiscal year 2016 and continuing until the new hire wage credit is exhausted or forfeited, or through fiscal year 2025, whichever occurs earlier; provided, that:

(1) The annual new hire wage credit amount accrued shall be determined as of the end of each calendar year from 2010 through 2015 by multiplying the total new hire wage credit earned by a Qualified Social E-Commerce Company in each calendar year by the annual resident hiring factor in the same calendar year. The total new hire wage credit amount shall be the aggregate of the new hire wage credit amount earned in each calendar year, subject to the new hire wage credit cap. The amount of any new hire wage credit earned in a calendar year shall be based on new hire information reported by a Qualified Social E-Commerce Company to the Office of Tax and Revenue in its corporate tax filing for each calendar year.

(2) Notwithstanding any other provision of this subchapter, no person shall claim an abatement pursuant to this section before October 1, 2015, and unless that person occupies qualified real property before April 1, 2017.

(3) If a Qualified Social E-Commerce Company leases or subleases any portion of the qualified real property, the new hire wage credit shall be applied only to a pro rata portion of the assessment on the qualified real property, which shall equal the ratio of the square footage of building area on the qualified real property that the Qualified Social E-Commerce Company occupies to the total square footage of building area that could be occupied.

(b) Subject to subsection (c) of this section and § 47-1818.04, the corporate income tax imposed on a Qualified High Technology Company by § 47-1817.06 with respect to taxable income earned by a Qualified Social E-Commerce Company shall be abated up to the amount of the resident employment credit for 5 years commencing on the date that the Qualified Social E-Commerce Company occupies qualified real property (except, that in no instance shall such 5-year period begin before October 1, 2015), or until the resident employment credit is exhausted or forfeited as provided pursuant to this subchapter, or through fiscal year 2025, whichever occurs earlier. The resident employment credit amount available to be applied against the tax imposed by § 47-1817.06 shall be determined each tax year by applying the resident new hire proportions during the timeframe set forth in § 47-1818.01(14).

(c)(1) An abatement provided for in this section shall only be granted if:

(A) The Qualified Social E-Commerce Company continues for the duration of the abatement period to:

(i) Be a Qualified Social E-Commerce Company; and

(ii) Hires at least 50 new hires annually in the District of Columbia during each year of the abatement period, and certifies the new hires to the Department of Employment Services;

(B) The Qualified Social E-Commerce Company employs at least 1,000 persons in the District of Columbia during the period commencing on October 1, 2015, through the end of the abatement period, and certifies the employment to the Department of Employment Services;

(C) Within 180 days of the effective date of this subchapter, the Mayor certifies that the Qualified Social E-Commerce Company has entered into a BAS agreement in accordance with §§ 47-1818.03 and 47-1818.04;

(D) If the qualified real property is leased to the Qualified Social E-Commerce Company, the lease is for a period of at least 10 years and the owner of the real property passes the abatement through to the Qualified Social E-Commerce Company;

(E) The Qualified Social E-Commerce Company continues to occupy a qualified real property from its initial occupancy of the qualified real property throughout the duration of the abatement period;

(F) If the Qualified Social E-Commerce Company owns the qualified real property, the qualified real property is not during the abatement period:

(i) Sold, transferred, exchanged, or otherwise conveyed; or

(ii) Leased to an unrelated entity in excess of 50% of the gross floor area, unless the Qualified Social E-Commerce Company maintains occupancy of at least 200,000 square feet of gross floor area;

(G) If the Qualified Social E-Commerce Company leases qualified real property, the lease is not during the abatement period:

(i) Assigned to a third party, other than to a related entity; or

(ii) Subleased to an unrelated entity in excess of 50% of the gross floor area, unless the Qualified Social E-Commerce Company maintains occupancy of at least 200,000 square feet of gross floor area; and

(H) The Qualified Social E-Commerce Company has not filed a petition in bankruptcy in connection with the Qualified Social E-Commerce Company's business.

(2)(A) If a Qualified Social E-Commerce Company fails or ceases to comply with or achieve the provisions of paragraph (1)(A) through (C) of this subsection, any abatement provided for in this section shall not apply during the period of non-compliance.

(B) If a Qualified Social E-Commerce Company fails or ceases to comply with or achieve the provisions of paragraph (1)(D) through (H) of this subsection, any abatement provided for in this section shall immediately terminate and cease to be granted.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Section references. — This section is referenced in § 47-1818.05 and § 47-1818.06.

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.03. City-wide joint business activity strategy agreements.

(a) Within 180 days of [October 9, 2012], the Mayor shall enter into a BAS agreement with a Qualified Social E-Commerce Company and certify the agreement as required by § 47-1818.04 and submit it to the Council as required by § 47-1818.05.

(b) The Mayor shall ensure that the BAS agreement provides:

(1) That the Qualified Social E-Commerce Company will leverage its activities to assist retail businesses along disrupted corridors;

(2) For the coordination of the Qualified Social E-Commerce Company's offering of technology, marketing, social media, and other training opportunities for District of Columbia small businesses;

(3) For the development of engineering-related programs to recruit, train, and retain software developers in the District of Columbia; and

(4) For the Qualified Social E-Commerce Company's participation in hiring STEM students as part of the Summer Youth Employment Program established pursuant to § 32-241.

(c) Within 365 days of Council approval of the BAS agreement, as required by § 47-1818.05, and annually thereafter during the term of an abatement granted pursuant to this subchapter, the Mayor shall submit a report to the Council on each BAS agreement approved by the Council detailing the level of compliance under each BAS agreement.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Section references. — This section is referenced in § 47-1818.01 and § 47-1818.02.

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.04. Certification.

(a) Within 180 days of the effective date of this subchapter, the Mayor shall certify that the Qualified Social E-Commerce Company and the District have executed a BAS agreement.

(b) The Mayor shall certify to the Office of Tax and Revenue the identity of each Qualified Social E-Commerce Company for which eligibility for an abatement pursuant to this subchapter has been verified by the Mayor and shall provide a description of the qualified real property that is to receive an abatement and the date on which the abatement shall commence.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Section references. — This section is referenced in § 47-1818.02, § 47-1818.03, and § 47-1818.05.

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.05. Council approval of city-wide business activity strategy agreements.

(a)(1) Within 180 days of the effective date of this subchapter, the Mayor shall submit each BAS agreement, along with proof of the certification required by § 47-1818.04(a), to the Council for its approval.

(2) If no proposed resolution of disapproval is filed with the Secretary to the Council within 14 days of the receipt by the Council of the BAS agreement, the BAS agreement shall be deemed approved.

(3) If a proposed resolution of disapproval is filed with the Secretary to the Council within 14 days of receipt by the Council of the BAS agreement, the Council may approve or disapprove the BAS agreement by resolution within 30 days of the receipt of the BAS agreement. If the Council neither affirmatively approves or disapproves the BAS agreement within 30 days of the receipt by the Council of the BAS agreement, the BAS agreement shall be deemed approved.

(b) Notwithstanding the requirements of this section, an abatement provided pursuant to § 47-1818.02 shall not be contingent upon the Council approval, or disapproval, of the BAS agreement.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Section references. — This section is referenced in § 47-1818.03.

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.06. Tax credits to Qualified Social E-Commerce Companies; exceptions.

A Qualified Social E-Commerce company that utilizes, or is the beneficiary of, any of the following tax abatements, exemptions, or waivers during the abatement period shall not be eligible for the abatements pursuant to § 47-1818.02, and further, the utilization of, or being the beneficiary of, the abatements provided for in § 47-1818.02 shall disqualify a Qualified Social E-Commerce Company from eligibility for any of the following tax abatements, exemptions, or waivers:

(1) The real property tax abatement for certain commercial properties provided in § 47-811.03.

(2) Earning and allowance of wage tax credits against the tax imposed by § 47-1817.06, as provided in § 47-1817.03, during calendar years 2010 through 2015, unless the amount of such credits earned exceeds $15 million, in which case the credit amount in excess of $15 million may be allowed as a credit against the tax imposed by § 47-1817.06, as provided in § 47-1817.03.

(3) The waiver of corporate income tax on a Qualified High Technology Company for 5 years from the date of commencing business as provided in § 47-1817.06(a)(2)(C).

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.07. First Source employment; inapplicable.

Notwithstanding any other provision of law, the requirements of subchapter X of Chapter 2 of Title 2 [§ 2-219.01 et seq.] pertaining to government-assisted non-construction projects shall not apply to a Qualified Social E-Commerce Company receiving a benefit pursuant to this subchapter; specifically, § 2-219.03(e)(1), pertaining to government-assisted non-construction projects, and § 2-219.03(e)(1C), pertaining to hiring and reporting requirements in government-assisted non-construction projects.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Legislative history of Law 19-174. — See note to § 47-1818.01.

§ 47-1818.08. Delegation of authority.

The Mayor may delegate the functions vested in him by this subchapter to an appropriate executive office, agency or department.

(Oct. 9, 2012, D.C. Law 19-174, § 2, 59 DCR 8712.)

Legislative history of Law 19-174. — See note to § 47-1818.01.